

## Agency Structure Codebook

This codebook describes the data collected for the second edition of *Sourcebook of United States Executive Agencies (Sourcebook)*, a report prepared for the Administrative Conference of the United States. The dataset described in this codebook has three components: 1) the codebook describing the variables and their coding, 2) the statutory provisions justifying the coding, and 3) a Microsoft Excel spreadsheet containing the data.

## Data Collection

The data collection process for the second edition of the *Sourcebook of United States Executive Agencies* was similar to that of the first. During the summer of 2017, the authors updated the data for the 250 agency and bureau<sup>1</sup> statutes that had previously been analyzed in either the first version of the *Sourcebook*<sup>2</sup> or in Professor Selin's *What Makes an Agency Independent?* dataset<sup>3</sup> to account for statutory changes since the data were originally collected.

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<sup>1</sup> Any provision involving a bureau must specifically recognize the bureau by name. Provisions that involve a bureau's policy jurisdiction but grant authority to an official higher in the agency hierarchy are not included as part of the bureau's structural features. For example, statutory provisions granting the Secretary of Agriculture authority to do things relating to national forest land likely implicate the U.S. Forest Service, but are not considered part of the Forest Service's responsibilities unless the statute specifically recognizes the Service by name.

<sup>2</sup> Data collection proceeded in three phases. In the first phase, each researcher on the team was responsible for approximately 15 agencies. Each researcher found the original public law that established the agency and that law's corresponding updated section in the U.S. Code. Unless otherwise specified, all information referring to "statute" in the codebook comes from this updated section of the U.S. Code. Next, each researcher read that section of the Code and extracted information about the agency's structure. Researchers noted statutory features of each agency along with a statutory reference for each feature. A total of 61 statutory characteristics of agencies were tracked for the 7 components of the EOP, the 15 executive departments, and 85 independent agencies. Researchers noted the location of each agency (e.g., EOP, executive department, etc.), features of agency governance (e.g., commission, fixed terms, number of appointees), agency powers (e.g., power to raise funds, independent litigating authority), and aspects of agency political oversight (e.g., OMB and congressional reporting requirements, congressional committee jurisdiction).

In the second phase of the research, each researcher's work was double-checked against the work of the team lead. Once each researcher completed coding each agency's statute, he or she sent it to the team lead. The team lead also coded the statutes for each of the agencies. After the team lead received the completed coding from the team, she compared the two coded versions of the data for each agency and resolved any discrepancies in the coding. She then placed the final data in the Master Agency Structure Spreadsheet.

In the final phase, coding of the data was validated using a variety of different sources depending upon the type of agency and characteristic. Where discrepancies emerged, statutes were reread and a judgment was made about what source was correct. If discrepancies existed, they were often the result of the team using the provisions of the statutory law described above to code the structural features of the agency. This report relies on the portions of the U.S. Code related to agency structure, but it is possible that other statutory provisions outside of the establishing statute impose additional requirements on the agency or specify additional structural features of the agency. In addition, not all structural features are detailed in statute. Many are determined by agency action. Agencies promulgate regulations to implement law and clarify areas where statutory law is unclear. For example, many commission statutes are silent on the question of what constitutes a quorum in an agency yet such rules are necessary for the functioning of the agency. Agencies clarify this uncertainty in regulation, practice, or agency bylaws. Finally, in some cases administrative common law adds content to what is not explicitly included in statute. For example, the statute authorizing the Securities and Exchange Commission does not include explicit for-cause protections for the removal of commissioners. Yet, federal courts recognize the existence of for-cause protections in the agency despite no explicit mention in statute. *See, e.g., SEC v. Blinder, Robinson, and Co.*, 855 F.2d 677 (10th Cir. 1988).

<sup>3</sup> Jennifer L. Selin, *What Makes An Agency Independent?*, 59 Am. J. Pol. Sci. 971 (2015) (data available at <http://faculty.missouri.edu/selinj/data.shtml>).

For the remaining 28 agency statutes that had not previously been analyzed, the authors found the original public law that established the agency or bureau and the law's corresponding updated section in the United States Code. Next, the research team read that section of the Code to extract information about agency structure. When possible, all data were validated using a variety of different sources depending upon the type of agency and characteristic.

The *Sourcebook* continues to rely primarily on the statutory language of authorizing statutes rather than administrative practice. This choice was made for the sake of consistency between editions and also to capture the structural “deal” between Congress and the President. While this allows for statutory comparisons across agencies, it does place some limitations on the data. For example, the United States Code references the United States Postal Service (USPS) in 32 different titles. While the *Sourcebook* references the USPS's structure as laid out in Title 39, other titles undoubtedly impose additional requirements and administrative procedures that affect USPS governance. In addition, the reliance on authorizing statutes does not explain how these agencies implement the law in practice nor does it elaborate upon the policy implications of agency design decisions. For a few areas of interest, governmental publications supplement the information obtained from statute. Those publications are noted in the codebook.

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## Variables

This section of the codebook includes a description of each variable and how each variable is coded in the dataset.

### *Housekeeping Variables*

Name: Name of Agency.

Statute: Sections of the U.S. Code that establish the agency.

Date of Creation: Date the establishing statute for the agency became law. In most cases the date of creation is clear. In some cases, however, there is some uncertainty. For example, the Department of Labor was created as an independent agency in 1888, became part of the Department of Labor and Commerce in 1903, and was named an executive department in 1913. Where there was uncertainty we relied on agency self-interpretation. *Source:* Agency statute; Agency-issued statements about agency history (usually from the agency's website).

EOP: This variable is coded with a (1) if the agency is a component of the EOP and (0) otherwise. *Source:* Agency statute.

Exec. Dept.: This variable is coded with a (1) if the agency is an executive department or a component of an executive department and (0) otherwise. *Source:* Agency statute.

Bureau: This variable is coded with a (1) if the agency is a component of a larger department or agency and (0) otherwise. *Source:* Agency statute.

Corporation: This variable is coded with a (1) if the agency is a wholly owned government corporation and (0) otherwise. Federally chartered private corporations or nonprofit entities are coded (0). *Source:* 31 U.S.C. § 9101(3) (2017).

CodeRef: This variable is coded with a (1) if the agency is referenced anywhere in the United States Code and (0) otherwise. *Source:* United States Code.

StatMandate: This variable is coded with a (1) if a federal statute mandates the establishment of the agency and (0) otherwise. Examples of statutory language mandating the establishment of an agency include the statute authorizing the Food and Drug Administration, which states “There is established in the Department of Health and Human Services the Food and Drug Administration,”<sup>4</sup> and the statute authorizing the National Telecommunications and Information Administration, which states “There shall be within the Department of Commerce an administration to be known as the National Telecommunications and Information Administration.”<sup>5</sup> *Source:* Agency statute.

StatPermit: This variable is coded with a (1) if a federal statute permits, but does not mandate, the establishment of the agency and (0) otherwise. An example of statutory language merely permitting the establishment of an agency includes the statute recognizing the Natural Resources Conservation Service, which states that “The Secretary is authorized to establish and maintain within the Department [of Agriculture] a Natural Resources Conservation Service.”<sup>6</sup> *Source:* Agency statute.

### *Leadership Structure and Agency Personnel*

Multimember: This variable is coded with a (1) if the agency is a multi-member commission, has a board of directors, or the like and (0) otherwise. *Source:* Agency statute.

NumberMembers: If the agency is a multi-member commission or board, the number of *voting* members on the commission or board of directors. (.) denotes an agency

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<sup>4</sup> 21 U.S.C. § 393(a) (2017).

<sup>5</sup> 47 U.S.C. § 902(a)(1) (2017).

<sup>6</sup> 7 U.S.C. § 6962(a) (2017).

that is not a commission or does not have a board. This includes multi-member bodies that do or do not have fixed terms. *Source:* Agency statute.

QuorumRules: (1) Statute specifies the number of commissioners or board members that constitute a quorum; (0) Statute does not specify the number of commissioners or board members that constitute a quorum; (.) Quorum rules not applicable because not commission or board. An example of a statute defining a quorum is the statute authorizing the Corporation for National and Community Service, which states, “A majority of the appointed members of the Board shall constitute a quorum.”<sup>7</sup> *Source:* Agency statute.

QuorumNumber: If QuorumRules is coded (1), the number of members or commissioners the statute specifies constitute a quorum. *Source:* Agency statute.

Appointees:

PAS: Number of positions in agency subject to presidential appointment with Senate confirmation. *Source:* S. COMM. ON HOMELAND SEC. & GOV’T AFFAIRS, 114<sup>TH</sup> CONG., POLICY AND SUPPORTING POSITIONS (G.P.O. 2016).

NA: Number of Senior Executive Service general positions in agency filled by non-career appointment. *Source:* S. COMM. ON HOMELAND SEC. & GOV’T AFFAIRS, 114<sup>TH</sup> CONG., POLICY AND SUPPORTING POSITIONS (G.P.O. 2016).

SchC: Number of positions in agency filled by Schedule C Excepted Appointment. *Source:* S. COMM. ON HOMELAND SEC. & GOV’T AFFAIRS, 114<sup>TH</sup> CONG., POLICY AND SUPPORTING POSITIONS (G.P.O. 2016).

PA: Number of positions in agency subject to presidential appointment without Senate confirmation that are not non-career SES positions or Schedule C positions. *Source:* S. COMM. ON HOMELAND SEC. & GOV’T AFFAIRS, 114<sup>TH</sup> CONG., POLICY AND SUPPORTING POSITIONS (G.P.O. 2016).

XS: Number of policy and supporting positions in the agency subject to statutory excepted appointment that are not PAS, NA, SC, or PA positions. *Source:* S. COMM. ON HOMELAND SEC. & GOV’T AFFAIRS, 114<sup>TH</sup> CONG., POLICY AND SUPPORTING POSITIONS (G.P.O. 2016).

Agency-specific personnel:

For the purposes of the chapters of Title 5 relating to pay and allowances, certain agencies’ employees are excluded from the definition of “employee”<sup>8</sup> and other agencies’ statutes permit employment systems particular to that agency. Examples of statutory language indicating

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<sup>7</sup> 42 U.S.C. § 12651b(b) (2017).

<sup>8</sup> 5 U.S.C. § 5102 (2017).

separate employment systems include “members, alternates, officers, and employees of the Commission are not federal employees for any purpose”<sup>9</sup> or “rates of basic pay for all employees may be set and adjusted by the agency without regard to” civil service provisions.<sup>10</sup> Other statutes allow for some agency employees to fall outside of civil service provisions but place limitations on the number. Examples of this sort of language include the agency “may appoint not more than 425 of the scientific, engineering, and administrative personnel of the Administration without regard to [civil service] laws.”<sup>11</sup> Agency-specific personnel system is coded (3) if 5 U.S.C. § 5102 excepts agency employees from the definition of “employee”; (2) if the agency’s statute permits the agency to use employment systems particular to that agency; (1) if the agency statute allows a limited number of employees to fall outside of civil service provisions; (0) if the statute does not specifically allow for any agency employees to fall outside of civil service provisions. *Source:* 5 U.S.C. § 5102 (2017); Agency statute.

Employees:

The number of employees in the agency as of September 2016. *Source:* Office of Personnel Management. *Central Personnel Data File*, September 2016, <http://www.fedscope.opm.gov/employment.asp>. For some agencies, the Office of Personnel Management does not collect employment data. Sources used to obtain employee data in those cases include OFFICE OF MGMT. & BUDGET, EXEC. OFFICE OF THE PRESIDENT, BUDGET OF THE UNITED STATES GOVERNMENT, FISCAL YEAR 2018 (2017) (Appendix, 2016 Actual FTE).

In cases where OPM does not collect employment data researchers relied on other sources such as Congressional Research Service reports, Presidential budget documents, communications with agency officials, and secondary sources for estimates of agency employment.

Limitation on  
Appointments:

Citizen of U.S.

(1) Statute mandates that board members or commissioners or the agency head must be citizens of the United States; (0) Statute does not mandate members/commissioners/agency head be citizens of the United States. An example of such a statute is the statute authorizing the Farm Credit Administration which stipulates, “The Board members shall be citizens of the United States and broadly representative of the public interest.”<sup>12</sup> *Source:* Agency statute.

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<sup>9</sup> 40 U.S.C. § 14301(f) (2017) (Appalachian Regional Commission).

<sup>10</sup> 7 U.S.C. § 2(a)(7)(B) (2017) (Commodity Futures Trading Commission).

<sup>11</sup> 51 U.S.C. § 20113(b)(1) (2017) (National Aeronautics and Space Administration).

<sup>12</sup> 12 U.S.C. § 2242(a) (2017).

- Civilian: (1) Statute mandates that board members or commissioners or the agency head must be civilians; (0) Statute does not mandate members/commissioners/agency head be civilians. *Source:* Agency statute.
- Geographic: (1) Statute places a geographic limitation on the nomination/selection of board members or commissioners or the agency head; (0) Statute does not place a geographic limitation on members/commissioners/agency head. A statute that advises the President to consider geography “to the maximum extent possible,” “as nearly as practicable,” or similar language is coded as a (1). One example of a statute that places a geographic limitation is the statute authorizing the Board of Governors of the Federal Reserve. It states, “In selecting members of the Board, not more than one of whom shall be selected from any one federal reserve district, the president shall have due regard to a fair representation of the financial, agricultural, industrial, and commercial interests and geographical divisions of the country.”<sup>13</sup> *Source:* Agency statute.
- Demographic: (1) Statute places a demographic limitation on the nomination/selection of board members or commissioners or the agency head; (0) Statute does not place a demographic limitation on members/commissioners/agency head. A statute that advises the President to appoint members so that the Board shall be diverse according to race, ethnicity, age, gender, or other characteristics “to the maximum extent possible,” “as nearly as practicable,” or similar language is coded as a (1). One example of a demographic limitation is from the statute authorizing the Corporation for National and Community Service, which states that one of the 15 members must be “an individual between the ages of 16 and 25.”<sup>14</sup> *Source:* Agency statute.
- Expertise: (1) Statute places an expertise or experience limitation on the nomination/selection of members or commissioners or the agency head; (0) Statute does not place an expertise or experience limitation on members/commissioners/agency head. For example, the statute authorizing the Chemical Safety and Hazard Investigation Board states, “Members of the Board shall be appointed on the basis of technical qualification, professional standing, and demonstrated knowledge in the fields of accident reconstruction, safety engineering, human factors, toxicology, or air pollution regulation.”<sup>15</sup> *Source:* Agency statute.
- LLExpertise: (1) Statute places an expertise or experience limitation on the nomination/selection of individuals below the level of agency head; (0) Statute does not place any expertise or experience limitation on individuals below the level of members/commissioners/agency head. For example, the

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<sup>13</sup> 12 U.S.C. § 241 (2017).

<sup>14</sup> 42 U.S.C. § 12651a(a)(1)(A) (2017).

<sup>15</sup> 42 U.S.C. § 7412(r)(6)(B) (2017).

Judge Advocate General of the U.S. Army “shall be appointed from those officers who at the time of appointment are members of the bar of a Federal court or the highest court of a State, and who have had at least eight years of experience in legal duties as commissioned officers.”<sup>16</sup> Expertise requirements for members of advisory commissions are excluded from this variable. *Source*: Agency statute.

Conflict of Interest:

(1) Statute places a conflict of interest limitation on the nomination/selection of members; (0) Statute does not place a conflict of interest limitation on members. For example, the statute authorizing the Commodity Futures Trading Commission states, “No Commissioner or employee of the Commission shall accept employment or compensation from any person, exchange, or clearinghouse subject to regulation by the Commission under this chapter during his term of office, nor shall he participate, directly or indirectly, in any registered entity operations or transactions of a character subject to regulation by the Commission.”<sup>17</sup> *Source*: Agency statute.

Congressional Input:

(1) Statute provides some mechanism for congressional input in the nomination process aside from confirmation; (0) Statute does not provide for congressional input. Examples of congressional input include “appointed by the President after taking into consideration the recommendation made by the Speaker of the House,” “appointed by the President upon the recommendation of the President of the Senate,” or similar language. Agencies where members of Congress are voting members of an agency Board are also coded as (1). *Source*: Agency statute.

Party Balancing:

(1) If the agency is a commission or has a board of directors, the statute limits the number of members who may serve from the same party; (0) If the agency is a commission or has a board of directors, the statute does not limit the number of members who may serve from the same party; (.) denotes an agency that is not a commission or does not have a board. Statutes that require the President to select among recommendations from separate party leaders in Congress (e.g., Senate majority and minority leaders) but do not specifically place limits on the number of members who can be from one party are coded as (0). *Source*: Agency statute.

### Limitations on Removals

Fixed Terms:

(1) Statute specifies a fixed term for members, commissioners, or agency heads; (0) Statute does not specify a fixed term for members/commissioners/agency head. *Source*: Agency statute.

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<sup>16</sup> 10 U.S.C. § 3037(b) (2017).

<sup>17</sup> 7 U.S.C. § 2(a)(8) (2017).

- Term Length: If Fixed Terms is coded (1), the number of years is specified for each term. *Source: Agency statute.*
- LL Fixed Terms: (1) Statute specifies a fixed term for an employee of the agency other than members, commissioners, or agency heads; (0) Statute does not specify a fixed term for employees other than members/commissioners/agency head. For example, the Chief of Chaplains of the Air Force serves a term of three years and is coded (1).<sup>18</sup> Fixed terms for members of advisory commissions are excluded from this variable. *Source: Agency statute*
- Staggered Terms: (1) If the agency is a commission or has a board of directors and the statute fixes the terms of the initial members of the commission or board so that nominations in future years will be staggered; (0) If the agency is a commission or has a board of directors and the statute does not fix terms so that nominations will be staggered; (.) The agency is not a commission or does not have a board of directors. An example of a statute that staggers terms is the statute authorizing the Consumer Product Safety Commission. It states, “The Commissioners first appointed shall be appointed for terms ending three, four, five, six, and seven years, respectively, after October 27, 1972, the term of each to be designated by the President at the time of nomination and each of their successors shall be appointed for a term of seven years from the date of the expiration of the term for which his predecessor was appointed.”<sup>19</sup> *Source: Agency statute.*
- For Cause: (1) Statute states that members of the commission or board or the agency head may only be removed by the President for “neglect of duty,” “malfeasance in office,” “inefficiency,” or similar language; (0) Statute does not place limitation on the removal of members of the commission or board or the agency head. *Source: Agency statute.*
- ServePresident: (1) Statute specifies that officials serve at the pleasure of the President; (0) Statute does not specifically state that officials serve at the pleasure of the President. *Source: Agency statute.*
- Continuation Replacement: (1) If Fixed Terms is coded (1) and statute provides that members or commissioners or the agency head whose term has expired may serve until a successor has been appointed and qualified; (0) If Fixed Terms is coded (1) and statute does not provide for continuation until replacement; (.) The commission or board members or agency head do not have fixed terms.<sup>20</sup>

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<sup>18</sup> 10 U.S.C. § 8039(a)(2) (2017).

<sup>19</sup> 15 U.S.C. § 2053(b)(1) (2017).

<sup>20</sup> The Department of the Treasury’s statute provides that when a term of office of any officer of the Department of the Treasury ends, the officer may continue to serve until a successor is appointed and qualified. 31 U.S.C. § 315 (2017). However, because the Secretary of the Treasury does not have a fixed term, the Treasury Department is coded (.).

Some provisions for continuation provide that a member may serve until a successor has been appointed and qualified or until some other point such as the end of the next congressional session. For example, the statute authorizing the Consumer Product Safety Commission states, “A Commissioner may continue to serve after the expiration of term until his successor has taken office, except that he may not so continue to serve more than one year after the date on which his term would otherwise expire.”<sup>21</sup>  
*Source:* Agency statute.

#### Acting Service

Rules: (2) Statute specifies that in the event of absence, disability, or vacancy in the position of agency head, the President may designate an individual to fill the vacancy; (1) Statute designates a specific official within the agency who may perform the agency head’s duties in case of absence, disability, or vacancy and does not allow for presidential designation; (0) Statute is silent on acting service. *Source:* Agency statute.

#### Agency Head Selection and Retention

PAS Head:<sup>22</sup> (1) Statute specifies that the President, with advice and consent of Senate, appoints the agency head and the agency head is not an official from another agency;<sup>23</sup> (0) Statute does not specify that the President appoints the agency head with the advice and consent of the Senate. *Source:* Agency statute.

#### President Selects

Chair: (1) Statute specifies that President designates the agency head but does not provide for Senate advice and consent; (0) Statute does not specify that President designates agency head without Senate advice and consent. *Source:* Agency statute.

#### Sec/Com Selects

Head: For bureaus within larger agencies, (1) Statute specifies that the head of the larger organization designates the agency head; (0) Statute does not specify that the head of the larger organization designates the agency head. For example, the Bureau of Prisons is coded (1) because the statute provides that its director shall be “appointed by and serving directly under the Attorney General.”<sup>24</sup> *Source:* Agency statute.

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<sup>21</sup> 15 U.S.C. § 2053(b)(2) (2017).

<sup>22</sup> Cochairmen selected by different means are coded as a (1) in two categories. For example, the Appalachian Regional Commission has two cochairmen, one appointed by the President and confirmed by the Senate and one elected by the state members of the board. 40 U.S.C. § 14301(b) (2017). This agency is coded as a (1) under PAS Head of Agency and as a (1) under Elected Head.

<sup>23</sup> For example, the Managing Trustee of the Federal Hospital Insurance Trust Fund Board is the Secretary of the Treasury. 42 U.S.C. § 1395i(b) (2017). This position is coded as a (0).

<sup>24</sup> 18 U.S.C. § 4041 (2017).

Elected Head: (1) Statute provides that the head of the agency is elected from among members or commissioners of the agency; (0) Statute does not provide for the election of the agency head.<sup>25</sup> *Source:* Agency statute.

Outside Head: (1) Statute specifies that the head of the agency is an official who also serves in a position in the administration that is outside of the agency; (0) Statute does not specify that the head of the agency is an outside official. For example, the Secretary of the Treasury is the Managing Trustee of the Federal Hospital Insurance Trust Fund Board.<sup>26</sup> The Board is therefore coded (1). *Source:* Agency statute.

Head Removal: (2) Statute specifies that the head may only be removed for inefficiency, neglect of duty, or malfeasance in office; (1) Statute specifies a term of office for the head of the agency; (0) Statute does not specify a term of office for the head and does not state the head may only be removed for cause, and does not state the head serves at the pleasure of the President. For the purposes of this variable only, the chair is considered the head of the agency if the agency is a board or commission. Statutes that specify terms of office or for-cause protections for board members or commissioners generally, but are silent with respect to the chair specifically, are coded (0). *Source:* Agency statute.

ChairServe

President: (1) Statute specifies that head of agency serves at the pleasure of the President; (0) Statute does not specifically state that head of agency serves at the pleasure of the President. *Source:* Agency statute.

### *Features Insulating Agency Policy*

#### Centralized OMB Review:

No OMB Budget

Review:<sup>27</sup> (2) The President must submit the agency's budget requests to Congress without revision, together with the President's own budget proposals; (1) The agency submits its budget directly to Congress without OMB review; (0) The agency is not able to bypass OMB budget review. *Source:* Agency statute; OFFICE OF MGMT. & BUDGET, EXEC. OFFICE OF THE PRESIDENT, OMB CIRCULAR A-11 (2017); Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget "Bypass" Authorities (Feb. 20, 2001), <http://www.citizen.org/documents/OMBDocument1.pdf>.

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<sup>25</sup> In the following agencies, the agency statute uses a term other than "elect": National Mediation Board ("designate"), Tennessee Valley Authority ("select"), and U.S. Election Assistance Commission ("select").

<sup>26</sup> 42 U.S.C. § 1395i(b) (2017).

<sup>27</sup> The Federal Aviation Administration, which is part of the Department of Transportation, has statutorily based budgetary bypass authority. However, because the entire DOT does not have bypass authority, DOT is coded (0).

No OMB Rule

Review: (1) The agency is exempted from submitting all regulatory actions to the administrator of the Office of Information and Regulatory Affairs (OIRA); (0) The agency is not exempted from OIRA review. *Source:* Agency statute; Exec. Order No. 12866, 58 Fed. Reg. 51735 (1993); 44 U.S.C. § 3502 (2017).

No OMB  
Communications

Review:<sup>28</sup> (2) The agency asserts “informal” legislative bypass authority without any explicit authority, statutory or otherwise, even though OMB Circular A-19 does cover the agency; (1) Statutory law exempts the agency from submitting its communications to Congress to OMB for coordination and clearance prior to transmittal to Congress; (0) The agency must submit communications to Congress to OMB for coordination and clearance prior to transmittal to Congress. *Source:* Agency statute; 12 U.S.C. § 250 (2017); OFFICE OF MGMT. & BUDGET, EXEC. OFFICE OF THE PRESIDENT, OMB CIRCULAR NO. A-19 (1979); Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget “Bypass” Authorities (Feb. 20, 2001), <http://www.citizen.org/documents/OMBDocument1.pdf>.

Independent  
Litigating:

In general, the Attorney General retains full authority over all litigation, civil and criminal, to which the United States, its agencies, or its departments are parties unless otherwise authorized by law. Some statutes establish an exception to the Attorney General’s authority and expressly authorize an agency to represent itself in legal proceedings. Courts interpret these statutes narrowly, and only statutes that are clear and unambiguous will establish an exception.<sup>29</sup> We also interpret the statutes narrowly. (1) Agency authorizing statute includes provisions relating to independent litigating authority; (0) Statute does not include provisions concerning the agency’s ability to represent itself in legal proceedings. *Source:* Agency statute.

Independent Funding: (5) Statute authorizes agency to assess and collect fees or charges for the purpose of covering a substantial portion of the cost of operating expenses incurred by the agency;<sup>30</sup> (4) Statute authorizes the agency to participate in

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<sup>28</sup> The Federal Aviation Administration (part of the Department of Transportation) and the Office of the Comptroller of the Currency (part of the Department of the Treasury) have statutorily based legislative bypass authority. However, because neither the entire Department of Transportation nor the Department of the Treasury have bypass authority, these departments are coded as (0).

<sup>29</sup> *E.g.*, United States v. Morgan, 222 U.S. 274 (1911); United States v. California, 332 U.S. 19 (1937).

<sup>30</sup> Even if the statute authorizes a specific subunit within an executive department to collect fees, that executive department is not as a whole funded substantially by these fees and therefore does not fall under (5). For example, while the Federal Energy Regulatory Commission shall assess and collect fees and annual charges in any fiscal year

activities generally associated with the business of banking, such as the authority to receive deposits, to insure credit risks of loss, to borrow and lend money, to purchase, sell, and guarantee securities, or other similar functions; (3) Statute establishes a working capital fund or other similar fund to be available to the agency without fiscal year limitation for one or more purposes; (2) Statute authorizes the agency to charge and collect reasonable administrative fees for products, services, access to data, etc.; (1) Statute authorizes the agency to accept, use, and dispose of gifts, donations, or property (real, personal, or mixed) in furtherance of the agency's purposes; (0) Statute does not include provision authorizing the agency to collect funds outside of congressional appropriations. For all classifications, any statutory provision that permits an outside actor to credit money from one agency to another is not included as a source of independent funding. *Source:* Agency statute.

No Approp: (1) Statute authorizes agency to assess and collect fees or charges for the purpose of covering a substantial portion of the cost of operating expenses incurred by the agency<sup>31</sup>; (0) Statute does not authorize agency to collect fees for the purpose of covering a substantial portion of the cost of operating expenses. *Source:* Agency statute.

### Congressional Oversight

#### Reporting

Requirements:<sup>32</sup> Number of statutorily mandated recurring agency reports to Congress. *Source:* CLERK OF THE U.S. HOUSE OF REPRESENTATIVES, 115<sup>TH</sup> CONG., REPORTS TO BE MADE TO CONGRESS (H.R. DOC. NO. 115-4) (2017).

#### Number

Committees:<sup>33</sup> Number of committees specified by statute as overseeing the agency in any way, including, *inter alia*, receiving reports, hearing testimony, or exercising a legislative veto. *Source:* Agency statute.

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in amounts equal to all of the costs incurred by the Commission in that fiscal year, the Department of Energy is coded (2) because these fees do not cover a substantial portion of the operating costs of the entire Department of Energy.

<sup>31</sup> Also coded as (5) under Independent Funding.

<sup>32</sup> The statutory provisions identified in this codebook exclusively contain references to reporting requirements in the agencies' authorizing statutes, while the count in the Excel spreadsheet includes all statutorily mandated recurring agency reports as published by the Clerk of the U.S. House of Representatives. Neither the statutory provisions nor the count recognize reports that are required of most or all agencies across the executive establishment (e.g., inspectors general's reports, etc.).

<sup>33</sup> House Committees of the 115<sup>th</sup> Congress include: Agriculture; Appropriations; Armed Services; Budget; Education and the Workforce; Energy and Commerce; Ethics; Financial Services; Foreign Affairs; Homeland Security; House Administration; Intelligence; Judiciary; Natural Resources; Oversight and Government Reform; Rules; Science, Space, and Technology; Small Business; Transportation and Infrastructure; Veterans Affairs; Ways and Means; and the Select Committee on the Events Surrounding the 2012 Terrorist Attack in Benghazi. Senate Committees of the 115<sup>th</sup> Congress include: Aging; Agriculture, Nutrition, and Forestry; Appropriations; Armed Services; Banking, Housing, and Urban Affairs; Budget; Commerce, Science, and Transportation; Energy and Natural Resources; Environment and Public Works; Ethics; Finance; Foreign Relations; Health, Education, Labor, and Pensions;

## *Other Key Structural Features*

### Government-Wide Management Laws

- CIO: (1) The agency is statutorily mandated to have a Chief Information Officer; (0) The agency is not statutorily mandated to have a Chief Information Officer. *Source:* 40 U.S.C. § 11101(2); 40 U.S.C. § 11315 (2017); 31 U.S.C. 901 (2017).
- IG: (3) The agency is an “establishment” as defined by the Inspector General Act of 1978 and has an Office of Inspector General that is headed by an Inspector General who is appointed by the President by and with the advice and consent of the Senate<sup>34</sup>; (2) The agency is a “designated federal entity” as defined by the Inspector General Act of 1978 and OMB’s published list of designated federal entities, and has an Office of Inspector General that is headed by an Inspector General who is appointed by the agency; (1) The agency is a “federal entity” as defined by the Inspector General Act of 1978 and OMB’s published list of federal entities and has an audit office that is required to report an annual audit and investigative activities to each house of Congress and the Director of OMB; (0) The agency is not an “establishment,” a “designated federal entity,” or a “federal entity.” *Source:* 5 U.S.C. app. 3 §§ 12, 8G (2017); Office of Mgmt. & Budget, 79 Fed. Reg. 1896-1901 (Executive Office of the President Jan. 10, 2014).
- CFO: (2) The Chief Financial Officers Act mandates that the agency have a Chief Financial Officer appointed by the President and confirmed by the Senate; (1) The Chief Financial Officers Act mandates that the agency have a Chief Financial Officer appointed by the head of the agency and is a career executive from either the competitive service or the Senior Executive Service; (0) The Chief Financial Officers Act places no requirements on the agency. *Source:* 31 U.S.C. § 901(b) (2017).
- Sunshine: (1) The agency is subject to the Government in Sunshine Act of 1976;<sup>35</sup> (0) The agency is not subject to the Government in Sunshine Act of 1976.

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Homeland Security and Governmental Affairs; Indian Affairs; Intelligence; Judiciary; Rules and Administration; Small Business and Entrepreneurship; and Veterans Affairs. Joint Committees of the 115<sup>th</sup> Congress include: Joint Economic; Joint Library; Joint Printing; and Joint Taxation.

<sup>34</sup> Even though the Inspector General Act does not include them, two agencies are coded as (3) because they have statutorily mandated PAS Inspectors General. *See* 50 U.S.C. § 3517(a) (2017) (Central Intelligence Agency); 50 U.S.C. § 3033(c)(1) (2017) (the Office of the Director of National Intelligence’s IG requirements). In addition, 3 agencies are coded as (2), despite not being recognized as designated federal entities in the OMB List of Designated Federal Entities because they have Inspectors General appointed by the head of the agency. *See* 10 U.S.C. § 3020(a) (2017) (Army); 10 U.S.C. § 5020(a) (2017) (Navy); 10 U.S.C. § 8020(a) (2017) (Air Force).

<sup>35</sup> Despite the fact that they do not fall within the list of entities to which the Government in Sunshine Act is applicable, two corporate entities are coded as (1) because their authorizing statutes suggest the entity shall be subject to § 552b or that meetings shall be open to the public. *See* 42 U.S.C. § 2996c(g) (2017) (all meetings of the Legal Services Corporation shall be open and subject to the requirements of the Sunshine Act); 47 U.S.C. §

Ambiguity resulting from the Act’s provision relating to the phrase “collegial body composed of two or more individual members, a majority of whom are appointed to such position by the President with the advice and consent of the Senate”<sup>36</sup> is resolved by following the rule of *Symons v. Chrysler Corporation Loan Guarantee Board*,<sup>37</sup> which does not count ex officio members or members of the agency who are appointed to other offices. For example, the Federal Hospital Insurance Trust Fund board, which is composed of the Commissioner of Social Security, the Secretaries of the Treasury, Labor, and Health and Human Services, and two members of the public appointed by the President by and with the advice and consent of the Senate is coded (0).<sup>38</sup> *Source*: Agency statute; 5 U.S.C. § 522b (2017).

### Advisory

#### Commissions:

(1) Statute establishes an advisory commission attached to the agency or any of its subparts; (0) Statute does not establish an advisory commission for the agency. The advisory commission must either currently be in operation or have the option of being established. Terminated advisory commissions do not qualify. Similarly, coordinating committees are not considered advisory commissions. *Source*: Agency statute.

### Establish Advisory

#### Commissions:

(1) Statute specifies that one or more advisory commissions may be established to advise the agency, or any of its subparts, in any way; (0) Statute does not specify that advisory commissions may be established. For example, the Department of Energy is coded (1) because its authorizing statute states: “The Secretary is authorized to establish in accordance with the Federal Advisory Committee Act such advisory committees as he may deem appropriate to assist in the performance of his functions.”<sup>39</sup> *Source*: Agency statute.

### Outside Approval:

Some agencies cannot take specific action without getting prior approval from one or more actors outside the agency. This approval may come from another part of the executive branch (including the agency head in the case of a bureau), or may come in the form of a legislative veto. For example, the Commodity Futures Trading Commission cannot implement any plan to charge and collect fees until that plan is approved by the House Agriculture

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396(g)(4) (2017) (Corporation for Public Broadcasting shall hold open meetings with reasonable notice to the public).

<sup>36</sup> 5 U.S.C. § 552b(a)(1) (2017).

<sup>37</sup> 670 F.2d 238, 243-44 (D.C.Cir. 1981).

<sup>38</sup> Note that this coding is for the agency itself and does not consider entities within the agency. For example, the National Council on the Humanities, composed of 26 members appointed by the President with the advice and consent of the Senate, falls under the Sunshine Act, but the National Endowment for the Humanities, which is headed by a single chairperson appointed by the President by and with the advice and consent of the Senate, does not, and is therefore coded (0).

<sup>39</sup> 42 U.S.C. § 7234 (2017).

Committee and the Senate Agriculture, Nutrition, and Forestry Committee.<sup>40</sup> The mere requirement to “consult with” or “consider views” of an outside body does not constitute outside approval. (1) Statute specifies that one or more agency actions require outside approval before being taken; (0) Statute does not specify that any agency actions require outside approval. *Source:* Agency statute.

Rulemaking: (1) Statute authorizes agency to promulgate rules and/or regulations; (0) Statute does not specifically authorize agency to promulgate rules and/or regulations. *Source:* Agency statute.<sup>41</sup>

Significant Rule: (1) According to the Federal Register, agency has promulgated a rule in the last 15 years that the Unified Agenda of Regulatory and Deregulatory Actions classified as significant under Executive Order 12,866; (0) According to the Federal Register, agency has not promulgated a significant rule in the last 15 years. *Source:* Federal Register, <https://www.federalregister.gov>.

Adjudication: (1) Statute gives agency, or any subpart of the agency,<sup>42</sup> the authority to conduct or hold hearings or adjudication, take testimony, receive evidence, employ administrative law judges, or other similar adjudicatory functions including the employment of administrative judges; (0) Statute does not specifically authorize adjudication or the employment of administrative law judges. Mere authority to conduct hearings is not enough to constitute a coding as (1). There must be some evidence in the statute that the authority to conduct hearings is accompanied by some other function indicative of adjudication. *Source:* Agency statute

#### Administrative Law

Judges: (1) Agency employs Administrative Law Judges; (0) Agency does not employ Administrative Law Judges. *Source:* Office of Personnel Management’s list of federal Administrative Law Judges by agency and level (as of March 2017), <https://www.opm.gov/services-for-agencies/administrative-law-judges/#url=ALJs-by-Agency>.

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<sup>40</sup> 7 U.S.C. § 16a(a) (2017).

<sup>41</sup> The coding for this variable was verified by using the Federal Register’s website and checking that the agency promulgated at least one rule in the last 15 years. Federal Register, Article Search, <https://www.federalregister.gov/articles/search>.

<sup>42</sup> For example, several bureaus within executive departments have adjudication authority whereas the departments as a whole do not conduct adjudication (see, e.g., Departmental Appeals Board in the Department of Health and Human Services; Executive Office for Immigration Review in the Department of Justice).

## Statutory Provisions

This section of the codebook includes the statutory provisions for each agency and bureau that correspond with the statutory characteristics noted in the *Sourcebook*. The purpose of this section is to provide a statutory citation that supports each coding decision made by the researchers. Note that these statutory provisions come exclusively from the authorizing statute for each agency. For the coding of several variables, we relied on sources outside of the agency's authorizing statute.<sup>43</sup> In addition, we consulted several outside sources to supplement coding of the agency's authorizing statute.<sup>44</sup> These outside sources are not included in this section of the codebook.

### **ADMINISTRATIVE CONFERENCE OF THE UNITED STATES**

*Date of Creation:* August 30, 1964<sup>45</sup>

*Statute:* 5 U.S.C. §§ 591-596 (2017)

*Authorizing Language:* The Administrative Conference of the United States consists of not more than 101 nor less than 75 members appointed as set forth in section (b).

- Reference: 5 U.S.C. § 593(a) (2017)

*Commissioners/Board Members:* The Administrative Conference of the United States consists of not more than 101 nor less than 75 members appointed as set forth in section (b).

- Reference: 5 U.S.C. § 593(a) (2017)
- The Conference is composed of a full time Chairman appointed. . .by the President, by and with the advice and consent of the Senate. . .; the chairman of each independent regulatory board or commission or an individual designated by the board or commission; the head of each Executive department or other administrative agency which is designated by the President, or an individual designed by the head of the department of agency; when authorized by the Council referred to in section 595(b) of this title, one or more appointees from a board, commission, department, or agency referred to in this subsection, designated by the head thereof with, in the case of a board or commission, the approval of the board or commission; individuals appointed by the President to membership on the Council who are not otherwise members of the Conference; and not more than 40 other members appointed by the Chairman, with the approval of the Council, for terms of 2 years, except that the number of members appointed by the Chairman may at no time be less than one-third nor more than two-fifths of the total number of members.
  - Reference: 5 U.S.C. § 593(b) (2017)
- The Conference includes a Council composed of the Chairman of the Conference, who is Chairman of the Council, and 10 other members appointed by the President, of whom not

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<sup>43</sup> Those variables include the number of PAS, SchC, PA, and XS appointees, committees confirming appointments, government-wide management laws (CIO, IG, CFO), rulemaking (economically significant, none, formal), and administrative law judges .

<sup>44</sup> Those variables include for cause provisions, OMB review provisions, the Sunshine Act, and adjudication.

<sup>45</sup> Congress statutorily established the Administrative Conference of the United States in 1964. Administrative Conference Act of 1964, Pub. L. 88-499, 78 Stat. 615 (Aug. 30 1964). However, the Conference began operating in 1968 with the appointment and confirmation of its first Chairman. Funding for ACUS stopped in 1995 and Congress reauthorized ACUS in 2004. Because Congress has never repealed the Administrative Conference Act of 1964, the date the Act became law is determined to be the agency's official date of creation.

more than one-half shall be employees of Federal regulatory agencies or Executive departments.

- Reference: 5 U.S.C. § 595(b) (2017)

*Quorum Rules:* None

*Agency Specific Personnel:* None

*Limitation on Appointment:* The Chairman shall select the [not more than 40 other] members in a manner which will provide broad representation of the views of private citizens and utilize diverse experience. The members shall be members of the practicing bar, scholars in the field of administrative law or government, or others specially informed by knowledge and experience with respect to Federal administrative procedure.

- Reference: 5 U.S.C. § 593(b)(6) (2017)

*Party Balancing:* None

*Fixed Terms:* A full time Chairman appointed for a five year term

- Reference: 5 U.S.C. § 593(b)(1) (2017)
- The [not more than 40 other members appointed by the Chairman] for terms of 2 years.
  - Reference: 5 U.S.C. § 593(b)(6) (2017)
- The term of each member [of the Council], except the Chairman, is 3 years.
  - Reference: 5 U.S.C. § 595(b) (2017)

*Staggered Terms:* None

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* The Chairman. . .may continue to serve until his successor is appointed and has qualified.

- Reference: 5 U.S.C. § 593(b)(1) (2017)
- When the term of a member [of the Council] ends, he may continue to serve until a successor is appointed. However, the service of any member ends when a change in his employment status would make him ineligible for Council membership under the conditions of his original appointment.
  - Reference: 5 U.S.C. § 595(b) (2017)

*Acting Service Rules:* The President may designate a member of the Council as Vice Chairman. During the Absence or incapacity of the Chairman, or when that office is vacant, the Vice Chairman shall serve as Chairman.

- Reference: 5 U.S.C. § 595(b) (2017)
- The Council has the power to. . .designate a member of the Council to preside at meetings of the Council in absence or incapacity of the Chairman and Vice Chairman.
  - Reference: 5 U.S.C. § 595(b)(5) (2017)

*Who is Head of Agency:* The Chairman is the chief executive of the Conference.

- Reference: 5 U.S.C. § 595(c) (2017)
- A full-time Chairman appointed for a 5 year term by the President, by and with the advice and consent of the Senate.
  - Reference: 5 U.S.C. § 593(b)(1) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The Administrative Conference of the United States may. . .enter into arrangements with any administrative agency or major organizational unit

within an administrative agency pursuant to which the Conference performs any of the functions described in this section. . . Payment for services provided by the Conference pursuant to paragraph (4) shall be credited to the operating account for the Conference and shall remain available until expended.

- Reference: 5 U.S.C. § 594(4) (2017)
- The Administrative Conference of the United States may. . . provide assistance in response to requests relating to the improvement of administrative procedure in foreign countries. . . except that such assistance may only be undertaken on a fully reimbursable basis, including all direct and indirect administrative costs.
  - Reference: 5 U.S.C. § 594(5) (2017)
- The Chairman. . . has the power to. . . accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, for the purpose of aiding and facilitating the work of the Conference. Gifts and bequests of money and proceeds from sales of other property received as gifts, devises, or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Chairman. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gifts, devises, or bequests.
  - Reference: 5 U.S.C. § 595(c)(12) (2017)

*Reporting Requirements:* The Chairman, on behalf of the Conference, shall transmit to the President and Congress an annual report and such interim reports as he considers desirable.

- Reference: 5 U.S.C. § 595(c) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* The Administrative Conference of the United States may. . . provide assistance in response to requests relating to the improvement of administrative procedure in foreign countries, subject to the concurrence of the Secretary of State, the Administrator of the Agency for International Development, or the Director of the United States Information Agency, as appropriate.

- Reference: 5 U.S.C. § 594(5) (2017)

*Legislative Veto:* None

*Adjudication:* None

## AMTRAK

*Date of Creation:* October 30, 1970<sup>46</sup>

*Statute:* 49 U.S.C. §§ 24301-24322 (2017)

*Authorizing Language:* Amtrak is a railroad carrier under section 20102(2) and chapters 261 and 281 of this title.

- Reference: 49 U.S.C. § 24301(a) (2017)
- Amtrak. . . shall be operated and managed as a for-profit corporation; and is not a department, agency, or instrumentality of the United States Government.
  - Reference: 49 U.S.C. § 24301(a)(2)-(3) (2017)

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<sup>46</sup> Rail Passenger Service Act, Pub. L. No. 91-518, 84 Stat. 1327 (1970). Amtrak began service on May 1, 1971.

*Commissioners/Board Members:* The Amtrak Board of Directors. . .is composed of the following 10 directors. . .the Secretary of Transportation; the President of Amtrak, who shall serve as a nonvoting member of the Board; 8 individuals appointed by the President of the United States, by and with the advice and consent of the Senate.

- Reference: 49 U.S.C. § 24302(a)(1) (2017)
- In selecting individuals described in paragraph (1) for nominations for appointments to the Board, the President shall consult with the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate.

*Quorum Rules:* A majority of the members serving who are eligible to vote shall constitute a quorum for doing business

- Reference: 49 U.S.C. § 24302(e) (2017)

*Agency Specific Personnel:* Laws and regulations governing safety, employee representation for collective bargaining purposes, the handling of disputes between carriers and employees, employee retirement, annuity, and unemployment systems, and other dealings with employees that apply to a rail carrier subject to part A of subtitle IV [relating to operations of rail carriers] of this title apply to Amtrak.

- Reference: 49 U.S.C. § 24301(a) (2017)
- The Board may fix the pay of the officers of Amtrak. An officer may not be paid more than the general level of pay for officers of rail carriers with comparable responsibility.

*Limitation on Appointment:* Each of [members of the Board] must be a citizen of the United States.

- Reference: 49 U.S.C. § 24302(a)(1) (2017)
  - 8 individuals appointed by the President of the United States, by and with the advice and consent of the Senate, with general business and financial experience, experience or qualifications in transportation, freight and passenger rail transportation, travel, hospitality, cruise line, or passenger air transportation businesses, or representations of employees or users of passenger rail transportation or a State government.
- Reference: 49 U.S.C. § 24302(a)(C) (2017)
  - In selecting individuals described in paragraph (1) for nominations for appointments to the Board, the President shall. . .try to provide adequate and balanced representative of the major geographic regions of the United States served by Amtrak.
- Reference: 49 U.S.C. § 24302(a)(2) (2017)
  - When employed by Amtrak, an officer may not have a financial or employment relationship with another rail carrier, except that holding securities issued by a rail carrier is not deemed to be a violation of this subsection if the officer holding the securities makes a complete public disclosure of the holdings and does not participate in any decision directly affecting the rail carrier.

*Party Balancing:* Not more than 5 individuals appointed under paragraph (1)(C) may be members of the same political party

- Reference: 49 U.S.C. § 24302(a)(3) (2017)

*Fixed Terms:* An individual appointed under paragraph (1)(C) of this subsection shall be appointed for a term of 5 years.

- Reference: 49 U.S.C. § 24302(a)(3) (2017)

*Staggered Terms:* None

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* Such term [of 5 years for individual appointed under paragraph (1)(C)] may be extended until the individual's successor is appointed and qualified.

- Reference: 49 U.S.C. § 24302(a)(3) (2017)

*Acting Service Rules:* The vice chairman shall serve as chairman in the absence of the chairman.

- Reference: 49 U.S.C. § 24302(a)(4)

*Who is Head of Agency:* The Board shall elect a chairman and a vice chairman, other than the President of Amtrak, from among its membership.

- Reference: 49 U.S.C. § 24302(a)(4)

*OMB Review:* None<sup>47</sup>

*Independent Litigating:* None

*Independent Sources of Funding:* Amtrak. . . shall be operated and managed as a for-profit corporation.

- Reference: 49 U.S.C. § 24301(a)(2) (2017)

*Reporting Requirements:* Not later than 60 days after the end of each fiscal year, the Board shall submit a report describing all travel and reimbursable business travel expenses paid to each director when performing duties to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

- Reference: 49 U.S.C. § 24302(c)(2) (2017)
- Not later than February 15 of each year, Amtrak shall submit to Congress a report that for each route on which Amtrak provided intercity rail passenger transportation during the prior fiscal year, includes information on ridership; passenger-miles; the short-term avoidable profit or loss for each passenger-mile; the revenue-to-cost ratio; revenues; the United States Government subsidy; the subsidy not provided by the United States Government; and on time performance, specifies relevant information about a decision to pay an officer of Amtrak more than the rate for level I of the executive Schedule under section 5312 of title 5; and specifies significant operational problems Amtrak identifies; and proposals by Amtrak to solve those problems.
  - Reference: 49 U.S.C. § 24315(a) (2017)
- Not later than February 15 of each year, Amtrak shall submit to the President and Congress a complete report of its operations, activities, and accomplishments, including a statement of revenues and expenditures for the prior fiscal year.
  - Reference: 49 U.S.C. § 24315(b) (2017)
- Not later than 5 days after the Amtrak Board of Directors receives notification from Amtrak under paragraph (1)(A) [transfer of funds between Northeast Corridor and National Network accounts], the Board shall transmit to. . .the Committee on Transportation and Infrastructure and the Committee on Appropriations on the House of

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<sup>47</sup> Not an a department, agency, or instrumentality of the United States Government so not subject to OMB rule review. *See also* Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget “Bypass” Authorities (Feb. 20, 2001), *available at* <http://www.citizen.org/documents/OMBDocument1.pdf> (suggesting Amtrak has informal legislative bypass authority).

Representatives, and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate, a report that includes the amount of the transfer and a detailed explanation of the reason for the transfer.

- Reference: 49 U.S.C. § 24317(g)(2) (2017)
- Not later than February 15 of each year, Amtrak shall submit to Congress and the Secretary of Transportation final 5-year business line plans and 5-year asset plans prepared in accordance with this section.
  - Reference: 49 U.S.C. § 24320(a) (2017)
- Not later than 120 days after the date of enactment of the Passenger Rail Reform and Investment Act of 2015 and annually thereafter for 5 years, Amtrak shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the plan developed pursuant to subsection (a) [for eliminating loss associated with food and beverage provision] and a description of progress in the implementation of the plan.
  - Reference: 49 U.S.C. § 24321(e) (2017)
- Prior to entering into any contract in excess of \$100,000,000 for rolling stock and locomotive procurements Amtrak shall submit a business case analysis to the . . . Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations on the House of Representatives, on the utility of such procurements.
  - Reference: 49 U.S.C. § 24322(a) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* On application of Amtrak, the Secretary of Transportation may exempt Amtrak from this subsection [regarding domestic buying preferences] if the Secretary decides that for particular articles, material, or supplies the requirements of paragraph (2) of this subsection are inconsistent with the public interest; the cost of imposing those requirements is unreasonable; or the articles, material, or supplies, or the articles, materials, or supplies from which they are manufactured, are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and are not of a satisfactory quality; or rolling stock or power train equipment cannot be bought and delivered in the United States within a reasonable time.

- Reference: 49 U.S.C. § 24305(f)(4) (2017)
- Upon written request from the Amtrak Board of Directors, the Secretary may exempt Amtrak from including in a plan required under this subsection any information described in paragraphs (1) and (2) [5 year business line and asset plan]
  - Reference: 49 U.S.C. § 24320(c)(7)(A) (2017)

*Legislative Veto:* None

*Adjudication:* None

## **APPALACHIAN REGIONAL COMISSION**

*Date of Creation:* March 9, 1965<sup>48</sup>

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<sup>48</sup> Appalachian Regional Development Act, Pub. L. No. 89-4, 79 Stat. 5 (1965).

*Statute:* 40 U.S.C. §§ 14301-14322

*Authorizing Language:* There is an Appalachian Regional Commission.

- Reference: 40 U.S.C. § 14301(a) (2017)

*Commissioners/Board Members:* The Commission is composed of the Federal Cochairman, . . . and the Governor of each participating State in the Appalachian region.

- Reference: 40 U.S.C. 14301(b)(1) (2017)

*Quorum Rules:* A decision involving Commission policy, approval of state, regional, or subregional development plans or strategy statements, modification or revision of the Appalachian Regional Commission Code, allocation of amounts among the States, or designation of a distressed county or an economically strong county shall not be made without a quorum of state members.

- Reference: 40 U.S.C. § 14302(c)
- A state alternate shall not be counted toward the establishment of a quorum of the Commission when a quorum of the state members is required.
  - Reference: 40 U.S.C. § 14301(b)(2) (2017)

*Agency Specific Personnel:* Members, alternates, officers, and employees of the Commission are not federal employees for any purpose, except the Federal Cochairman, the alternate to the Federal Cochairman, the staff of the Federal Cochairman, and federal employees detailed to the Commission.

- Reference: 40 U.S.C. § 14301(f) (2017)

*Limitation on Appointment:* Except as permitted by paragraph (2), an individual who is a state member or alternate, or an officer or employee of the Appalachian Regional Commission, shall not participate personally and substantially as a member, alternate, officer, or employee in any way in any particular matter in which, to the individual's knowledge, any of the following has a financial interest: the individual; the individual's spouse, minor child, or partner, an organization (except a State or political subdivision of a State) in which the individual is serving an officer, director, trustee, partner, or employee; any person or organization with whom the individual is serving as an officer, director, trustee, partner, or employee or is negotiating or has any arrangement concerning prospective employment. Paragraph (1) does not apply if the individual first advises the Commission of the nature and circumstances of the particular matter and makes full disclosure of the financial interest and receives in advance a written decision of the Commission that the interest is not so substantial as to be considered likely to affect the integrity of the services which the Commission may expect from the individual.

- Reference: 40 U.S.C. § 14309(a)(1)-(2) (2017)

*Party Balancing:* None

*Fixed Terms:* None

*Staggered Terms:* None

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* Each state member may have a single alternate, appointed by the Governor from among the members of the Governor's cabinet or the Governor's personal staff. The President shall appoint an alternate for the Federal Cochairman. An alternate shall vote in the event of the absence, death, disability, removal, or resignation of the member for whom the individual is an alternate.

- Reference: 40 U.S.C. § 14301(b)(2) (2017)

*Who is Head of Agency:* The Federal Cochairman, appointed by the President by and with the advice and consent of the Senate.

- Reference: 40 U.S.C. § 14301(b)(1) (2017)
- The Federal Cochairman is one of the two Cochairmen of the Commission. The state members shall elect a Cochairman of the Commission from among themselves.
  - Reference: 40 U.S.C. § 14301(b)(3) (2017)
- [The state elected Cochairman shall serve] for a term of not less than one year.
  - Reference: 40 U.S.C. § 14301(b)(3) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* To carry out its duties under this subtitle, the Appalachian Regional Commission may. . . accept, use, and dispose of gifts or donations of services or any property.

- Reference: 40 U.S.C. § 14306(a)(6) (2017)
- Administrative expenses of the Commission shall be paid equally by the Government and the States in the Appalachian region, except that the expenses of the Federal Cochairman, the alternate to the Federal Cochairman, and the staff of the Federal Cochairman shall be paid only by the Government. The Commission shall determine the amount to be paid by each state.
  - Reference: 40 U.S.C. § 14306(d) (2017)

*Reporting Requirements:* Not later than six months after the close of each fiscal year, the Appalachian Regional Commission shall prepare and submit to the Governor of each State in the Appalachian region and to the President, for transmittal to Congress, a report on the activities carried out under this subtitle during the fiscal year.

- Reference: 40 U.S.C. § 14310 (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION**

*Date of Creation:* November 14, 1986<sup>49</sup>

*Statute:* 20 U.S.C. §§ 4701-4711

*Authorizing Language:* There is established, as an independent establishment of the executive branch of the United States Government, the Barry Goldwater Scholarship and Excellence in Education Foundation.

- Reference: 20 U.S.C. § 4703(a) (2017)

*Commissioners/Board Members:* The Board shall be composed of 13 members, as follows: Two members from the Senate, one appointed by the majority leader and one appointed by the minority leader of the Senate; Two members from the House of Representatives, one

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<sup>49</sup> National Defense Authorization Act for Fiscal Year 1987, Pub. L. No. 99-661, 100 Stat. 3816 (1986).

appointed by the majority leader and one appointed by the minority leader of the House of Representatives; Eight members. . .to be appointed by the President, by and with the advice and consent of the Senate; The Secretary of Education, or his designee, who shall serve ex officio as a member of the Board but shall not be eligible to serve as Chairman.

- Reference: 20 U.S.C. § 4703(b) (2017)

*Quorum Rules:* None

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* None

*Fixed Terms:* The term of office of each member of the Board shall be six years.

- Reference: 20 U.S.C. § 4703(c)(1) (2017)
- A member of Congress appointed to the Board. . .may not serve as a member of the Board for more than a total of six years.
  - Reference: 20 U.S.C. § 4703(c)(2) (2017)

*Staggered Terms:* The members first taking office shall serve as designated by the President, four for terms of two years, five for terms of four years, and four for terms of six years.

- Reference: 20 U.S.C. § 4703(c)(1)(A) (2017)

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* Notwithstanding the term limitation provided for under this paragraph, a member appointed under subsection (b) may continue to serve under such appointment until the successor to the member is appointed.

- Reference: 20 U.S.C. § 2703(c)(1)(C) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* Statute suggests a Chairman, but does not provide for his or her selection

- Reference: 20 U.S.C. § 4703(b)(4) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* There is established in the Treasury of the United States a trust fund to be known as the Barry Goldwater Scholarship and Excellence in Education Fund. The fund shall consist of amounts appropriated to it pursuant to section 4711 of this title and the amounts credited to it under subsection (d)

- Reference: 20 U.S.C. § 4707(a) (2017)
- The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund [investments in public debt securities as provided by subsection (b)] shall be credited to and form part of the fund
  - Reference: 20 U.S.C. § 4707(d) (2017)
- The Secretary of the Treasury may pay to the Foundation from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the purposes of this chapter.
  - Reference: 20 U.S.C. § 4708(a) (2017)
- In order to carry out this chapter, the Foundation may. . .receive money and other property donated, bequeathed, or devised without condition or restriction other than it be used for the purposes of the Foundation, and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions.

- Reference: 20 U.S.C. § 4710(a)(4) (2017)

*Reporting Requirements:* The Foundation shall submit to the President and to Congress an annual report of its operations under this chapter.

- Reference: 20 U.S.C. § 4710(b) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM**

*Date of Creation:* December 23, 1913<sup>50</sup>

*Statute:* 12 U.S.C. §§ 221-522 (2017)

*Authorizing Language:* None

*Commissioners/Board Members:* The Board of Governors of the Federal Reserve System shall be composed of seven members, to be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 12 U.S.C. § 241 (2017)

*Quorum Rules:* None

*Agency Specific Personnel:* [The Board's members' and employees'] employment, compensation, leave, and expenses shall be governed solely by the provisions of this chapter and rules and regulations of the Board not inconsistent therewith.

- Reference: 12 U.S.C. § 244 (2017)
- All such attorneys, experts, assistants, clerks, and other employees shall be appointed without regard to the provisions of the Act of January sixteenth, eighteen hundred and eighty-three, and amendments thereto, or any rule or regulation made in pursuant thereof: Provided, That nothing herein shall prevent the President from placing said employees in the classified service.
- Reference: 12 U.S.C. § 248(l) (2017)

*Limitation on Appointment:* In selecting the members of the Board, not more than one of whom shall be selected from any one Federal Reserve district, the President shall have due regard to a fair representation of the financial, agricultural, industrial, and commercial interests, and geographical divisions of the country. In selecting members of the Board, the President shall appoint at least 1 member with demonstrated primary experience working in or supervising community banks having less than \$10,000,000,000 in total assets.

- Reference: 12 U.S.C. § 241 (2017)
- The members of the Board shall be ineligible during the time they are in office. . .to hold any office, position, or employment in any member bank.
  - Reference: 12 U.S.C. § 242 (2017)
- No member of the Board of Governors of the Federal Reserve System shall be an officer or director of any bank, banking institution, trust company, or Federal Reserve Bank or hold stock in any bank, banking institution, or trust company.

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<sup>50</sup> Federal Reserve Act, Pub. L. No. 63-43, 38 Stat. 251 (1913).

- Reference: 12 U.S.C. § 244 (2017)
- No Senator or Representative in Congress shall be a member of the Board of Governors of the Federal Reserve System.
- Reference: 12 U.S.C. § 303 (2017)

*Party Balancing:* None

*Fixed Terms:* [The members shall be appointed] for terms of fourteen years.

- Reference: 12 U.S.C. § 241 (2017)

*Staggered Terms:* Upon the expiration of the term of any appointive member of the Federal Reserve Board in office on August 23, 1935, the President shall fix the term of the successor to such member at not to exceed fourteen years, as designated by the President at the time of nomination, but in such manner as to provide for the expiration of the term of not more than one member in any two-year period, and thereafter each member shall hold office for a term of fourteen years from the expiration of the term of his predecessor.

- Reference: 12 U.S.C. § 242 (2017)

*For Cause:* Each member shall hold office or a term of fourteen years from the expiration of the term of his predecessor, unless sooner removed for cause by the President.

- Reference: 12 U.S.C. S 242 (2017)

*Serve President:* None

*Continuation until Replacement:* Upon the expiration of their terms of office, members of the Board shall continue to serve until their successors are appointed and have qualified.

- Reference: 12 U.S.C. § 242 (2017)

*Acting Service Rules:* One of [the Vice Chairman] shall serve in the absence of the Chairman.

- Reference: 12 U.S.C. § 242 (2017)

*Who is Head of Agency:* Of the persons thus appointed, 1 shall be designated by the President, by and with the advice and consent of the Senate, to serve as Chairman of the Board for a term of 4 years. . . The Chairman of the Board, subject to its supervision, shall be its active executive officer.

- Reference: 12 U.S.C. § 242 (2017)

*OMB Review:*<sup>51</sup> No officer or agency of the United States shall have any authority to require the . . . Board of Governors of the Federal Reserve System . . . to submit legislative recommendations, or testimony, or comments on legislation, to any officer or agency of the United States for approval, comments, or review prior to the submission of such recommendations, testimony, or comments to the Congress if such recommendations, testimony, or comments to the Congress include a statement indicating that the views expressed therein are those of the agency submitting them and do not necessarily represent the views of the President.<sup>52</sup>

- Reference: 12 U.S.C. § 250 (2017)

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<sup>51</sup> The Board of Governors of the Federal Reserve System is identified as an “independent regulatory agency” and thus is exempt from OMB rule review. See Exec. Order No. 12866, 58 Fed. Reg. 51735 (1993); 44 U.S.C. § 3502(5) (2017).

<sup>52</sup> Financial regulatory agencies, including the Board of Governors of the Federal Reserve System, are exempt from OMB legislative communications review. 12 U.S.C. § 250 (2017). In addition, OMB Circular A-11 identifies the Fed as an agency not subject to budget review by law or custom. OFFICE OF MGMT. & BUDGET, EXECUTIVE OFFICE OF THE PRESIDENT, OMB CIRCULAR A-11 (2017). See also, Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget “Bypass” Authorities (Feb. 20, 2001), available at <http://www.citizen.org/documents/OMBDocument1.pdf>.

*Independent Litigating:* The Board may act in its own name and through its own attorneys in enforcing any provision of this title, regulations promulgated hereunder, or any other law or regulation, or in any action, suit, or proceeding to which the Board is a party and which involves the Board's regulation or supervision of any bank, banking holding company (as defined in section 1841 of this title), or other entity, or the administration of its operations.

- Reference: 12 U.S.C. § 248(p) (2017)

*Independent Sources of Funding:* The Board of Governors of the Federal Reserve System shall have power to levy semiannually upon the Federal reserve banks, in proportion to their capital stock and surplus, an assessment sufficient to pay its estimated expenses and the salaries of its members and employees for the half year succeeding the levying of such assessment, together with any deficit carried forward from the preceding half year, and such assessments may include amounts sufficient to provide for the acquisition by the Board in its own name of such site or building in the District of Columbia as in its judgment alone shall be necessary for the purpose of providing suitable and adequate quarters for the performance of its functions. After September 1, 2000, the Board may also use such assessments to acquire, in its own name, a site or building (in addition to the facilitates existing on such date) to provide for the performance of the functions of the Board.

- Reference: 12 U.S.C. § 243 (2017)
- Funds derived from such assessments [levied on Federal Reserve Banks] shall not be construed to be Government funds or appropriated moneys.
  - Reference: 12 U.S.C. § 244 (2017)
- The Board shall collect a total amount of assessments, fees, or other charges from the companies described in paragraph (2) [bank holding companies, savings and loan holding companies, nonbank financial companies supervised by the Board] that is equal to the total expenses the Board estimates are necessary or appropriate to carry out the supervisory and regulatory responsibilities of the Board with respect to such companies.
  - Reference: 12 U.S.C. § 248(s)(1) (2017)
- The services which shall be covered by the schedule of fees under subsection (a) of this section [pricing of services] are currency and coin services; check clearing and collection services; wire transfer services; automated clearinghouse services; settlement services' securities safekeeping services; Federal Reserve float; and any new services which the Federal Reserve System offers, including but not limited to payment services to effectuate the electronic transfer of funds
  - Reference: 12 U.S.C. § 248a(b) (2017)

*Reporting Requirements:* The Board shall, concurrent with each semi-annual hearing required by this section, submit a written report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking and Financial Services of the House of Representatives, containing a discussion of the conduct of monetary policy and economic developments and prospects for the future, taking into account past and prospective developments in employment, unemployment, production, investment, real income, productivity, exchange rates, international trade and payments, and prices.

- Reference: 12 U.S.C. § 225b(b) (2017)

- The Board of Governors of the Federal Reserve System shall annually make a full report of its operations to the Speaker of the House of Representatives, who shall cause the same to be printed for the information of Congress.
  - Reference: 12 U.S.C. § 247 (2017)
- The available members of the Board shall document in writing the determinations required by subparagraph (A)(ii) [relating to unusual circumstances requiring unanimous vote of 2 available members], and such written findings shall be . . . provided as soon as practicable. . . to the Chairman of the Committee on Banking, Housing, and Urban Affairs of the Senate and to the Chairman of the Committee on Financial Services of the House of Representatives.
  - Reference: 12 U.S.C. § 248(r)(2)(B) (2017)
- Not later than 12 months after September 20, 1996, and once every 60 months thereafter, the Board . . . shall conduct a study and submit a report to the Congress detailing the extent of small business lending by all creditors.
  - Reference: 12 U.S.C. § 252(a) (2017)
- The Board shall provide to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives not later than 7 days after the Board authorizes any loan or other financial assistance under this paragraph [authorization of discount of obligations arising out of actual commercial transactions], a report that includes the justification for the exercise of authority to provide such assistance; the identity of the recipients of such assistance; the date and amount of the assistance, and form in which the assistance was provided; and the material terms of the assistance, including duration, collateral pledge and the value thereof, all interest, fees, and other revenue or items of value to be received in exchange for the assistance, any requirements imposed on the recipient with respect to employee compensation, distribution of dividends, or any other corporate decision in exchange for the assistance, and the expected costs to the taxpayers of such assistance.
  - Reference: 12 U.S.C. § 343(3)(C)(i) (2017)
- The Board shall provide to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives. . . once every 30 days, with respect to any outstanding loan or other financial assistance under this paragraph [authorization of discount of obligations arising out of actual commercial transactions], written updates on the value of collateral, the amount of interest, fees, and other revenue or items of value received in exchange for the assistance, and the expected or final cost to the taxpayers of such assistance.
  - Reference: 12 U.S.C. § 343(3)(C)(ii) (2017)
- The Board shall report to the Congress on any excess loss liability it incurs under subparagraph (A) [on advances to critically undercapitalized depository institutions], as limited by subparagraph (B)(i), and the reasons therefore, not later than 6 months after incurring the liability.
  - Reference: 12 U.S.C. § 347b(b)(3)(D) (2017)
- Upon a finding by at least 5 members of the Board that extraordinary circumstances require such action, the Board, after consultation with the appropriate committees of the Congress, may impose, with respect to any liability of depository institutions, reserve requirements outside the limitations as to ratios and as to types of liabilities otherwise prescribed by paragraph (2) for a period not exceeding 180 days, and for further periods

not exceeding 180 days each by affirmative action by at least 5 members of the Board in each instance. The Board shall promptly transmit to the Congress a report of any exercise of its authority under this paragraph and the reasons for such exercise of authority.

- Reference: 12 U.S.C. § 461(b)(3) (2017)
- The Board shall promptly transmit to the Congress a report with respect to any exercise of its authority to require supplemental reserves under subparagraph (A) and such report shall state the basis for the determination to exercise such authority.
  - Reference: 12 U.S.C. § 461(b)(4)(B) (2017)
- If a supplemental reserve under subparagraph (A) has been required of depository institutions for a period of one year or more, the Board shall review and determine the need for continued maintenance of supplemental reserves and shall transmit annual reports to the Congress regarding the need, if any, for continuing the supplemental reserve.
  - Reference: 12 U.S.C. § 461(b)(4)(C) (2017)

*Review Commissions:* None

*Advisory Commissions:* There is created a Federal Advisory Council . . . The Federal Advisory Council shall have power, by itself or through its officers, (1) to confer directly with the Board of Governors of the Federal Reserve System on general business conditions; (2) to make oral or written representations concerning matters within the jurisdiction of said board; (3) to call for information and to make recommendations in regard to discount rates, rediscount business, note issues, reserve conditions in the various districts, the purchase and sale of gold or securities by reserve banks, open-market operations by said banks, and the general affairs of the reserve banking system.

- Reference: 12 U.S.C. § 261-262 (2017)

*Action Require Outside Approval:* The Board may not establish any program or facility under this paragraph [authorization of discount of obligations arising out of actual commercial transactions] without the prior approval of the Secretary of the Treasury.

- Reference: 12 U.S.C. § 343(3)(B)(iv) (2017)
- The Board may, at its discretion, by regulation exempt transactions or relationships from the requirements of this section [banking affiliates] if the Board finds the exemption to be in the public interest and consistent with the purposes of this section, and notifies the Federal Deposit Insurance Corporation of such finding and before the end of the 60-day period beginning on the date on which the Federal Deposit Insurance Corporation receives notice under clause (i), the Federal Deposit Insurance Corporation does not object, in writing, to the finding, based on a determination that the exemption presents an unacceptable risk to the Deposit Insurance Fund.
  - Reference: 12 U.S.C. § 371c(f)(2)(A) (2017)
- The Board may grant an exemption or exclusion under this subsection [restrictions on transactions with affiliates] only if, during the 60-day period beginning on the date of receipt of notice of the finding from the Board under paragraph (1)(B), the Federal Deposit Insurance Corporation does not object, in writing, to such exemption or exclusion, based on a determination that the exemption presents an unacceptable risk to the Deposit Insurance Fund.
  - Reference: 12 U.S.C. § 371c-1(e)(2) (2017)

*Legislative Veto:* None

*Adjudication:* The Board of Governors of the Federal Reserve System shall be authorized and empowered. . .to delegate, by published order or rule and subject to subchapter II of chapter 5, and chapter 7, of Title 5, any of its functions, other than those relating to rulemaking or pertaining principally to monetary and credit policies, to one or more administrative law judges.

- Reference: 12 U.S.C. § 248(k) (2017)

### **Consumer Financial Protection Bureau**

*Date of Creation:* July 21, 2010<sup>53</sup>

*Statute:* 12 U.S.C. §§ 5491-5603 (2017)

*Authorizing Language:* There is established in the Federal Reserve System, an independent bureau to be known as the Bureau of Consumer Financial Protection.

- Reference: 12 U.S.C. § 5491(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* In making any appointment under subparagraph (A) [employees of the Bureau], the Director may waive the requirements of chapter 33 of Title 5, and the regulations implementing such chapter, to the extent necessary to appoint employees on terms and conditions that are consistent with those set forth in section 248(l) of this title [Board of Governor’s authority to operate outside of civil service rules], while providing for fair, credible, and transparent methods of establishing qualification requirements for, recruitment for, and appointments to positions; fair and open competition and equitable treatment in the consideration and selection of individuals to positions; fair, credible, and transparent methods of assigning, reassigning, detailing, transferring, and promoting employees.

- Reference: 12 U.S.C. § 5493(a)(1)(C) (2017)
- Employees appointed to the Bureau may elect to participate in either both the federal Reserve System Retirement Plan and the Federal Reserve System Thrift Plan. . .or the Civil Service Retirement System.

- Reference: 12 U.S.C. § 5493(a)(3)(A) (2017)

*Limitation on Appointment:* The president shall nominate the Director from among individuals who are citizens of the United States.

- Reference: 12 U.S.C. § 5491(b)(3) (2017)
- No Director or Deputy Director may hold any office, position, or employment in any Federal reserve bank, Federal home loan bank, covered person, or service provider during the period of service of such person as Director or Deputy Director.

- Reference: 12 U.S.C. § 5491(d) (2017)

*Party Balancing:* N/A

*Fixed Terms:* The Director shall serve for a term of 5 years.

- Reference: 12 U.S.C. § 5491(c)(1) (2017)

*Staggered Terms:* N/A

*For Cause:* The President may remove the Director for inefficiency, neglect of duty, or malfeasance in office.

- Reference: 12 U.S.C. § 5491(c)(3) (2017)

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<sup>53</sup> Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376, (2010).

*Serve President:* None

*Continuation until Replacement:* An individual may serve as Director after the expiration of the term for which appointed, until a successor has been appointed and qualified.

- Reference: 12 U.S.C. § 5491(c)(2) (2017)

*Acting Service Rules:* There is established the position of Deputy Director, who shall . . . serve as acting Director in the absence or unavailability of the Director.

- Reference: 12 U.S.C. § 5491(b)(5)(B) (2017)

*Who is Head of Agency:* There is established the position of the Director, who shall serve as the head of the Bureau. Subject to paragraph (3) [U.S. Citizen], the Director shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 12 U.S.C. § 5491(b) (2017)

*OMB Review:*<sup>54</sup> No officer or agency of the United States shall have any authority to require the Director or any other officer of the Bureau to submit legislative recommendations, or testimony or comments on legislation, to any officer or agency of the United States for approval, comments, or review prior to submission of such recommendations, testimony, or comments to the Congress, if such recommendations, testimony, or comments to the Congress include a statement indicating that the views expressed therein are those of the Director or such officer, and do not necessarily reflect the views of the Board of Governors or the President.

- Reference: 12 U.S.C. § 5492(c)(4) (2017)
- This subsection [on funding] shall not be construed as implying any obligation on the part of the Director to consult with or obtain the consent or approval of the Director of the Office of Management and Budget with respect to any report, plan, forecast, or other information referred to in subparagraph (A) or any jurisdiction or oversight over the affairs or operations of the Bureau.
- Reference: 12 U.S.C. § 5497(a)(4)(E) (2017)

*Independent Litigating:* The Bureau may act in its own name and through its own attorneys in enforcing any provision of this title, rules thereunder, or any other law or regulation, or in any action, suit, or proceeding to which the Bureau is a party.

- Reference: 12 U.S.C. § 5564(b) (2017)
- The Bureau may represent itself in its own name before the Supreme Court of the United States, provided that the Bureau makes a written request to the Attorney General within the 10-day period which begins on the date of entry of the judgment which would permit any party to file a petition for writ of certiorari, and the Attorney General concurs with such request or fails to take action within 60 days of the request of the Bureau.
- Reference: 12 U.S.C. § 5564(e) (2017)

*Independent Sources of Funding:* Each year (or quarter of such year), beginning on the designated transfer date, and each quarter thereafter, the Board of Governors shall transfer to the Bureau from the combined earnings of the Federal Reserve System, the amount determined by the Director to be reasonably necessary to carry out the authorities of the Bureau under Federal consumer financial law, taking into account such other sums made available to the Bureau from the preceding year (or quarter of such year).

- Reference: 12 U.S.C. § 5497(a)(1) (2017)

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<sup>54</sup> The Consumer Financial Protection Bureau is identified as an “independent regulatory agency” and thus is exempt from OMB rule review. See Exec. Order No. 12866, 58 Fed. Reg. 51735 (1993); 44 U.S.C. § 3502(5) (2017).

- There is established in the Federal Reserve a separate fund, to be known as the “Bureau of Consumer Financial Protection Fund.” The Bureau Fund shall be maintained and established at a Federal reserve bank, in accordance with such requirements as the Board of Governors may impose. All amounts transferred to the Bureau under subsection (a) shall be deposited into the Bureau fund. The Bureau may request the Board of Governors to direct the investment of the portion of the Bureau Fund that is not, in the judgment of the Bureau, required to meet the current needs of the Bureau. . .Funds obtained by, transferred to, or credited to the Bureau fund shall be immediately available to the Bureau and under the control of the Director, and shall remain available until expended, to pay the expenses of the Bureau in carrying out its duties and responsibilities. The compensation of the Director and other employees of the Bureau and all other expenses thereof may be paid from, obtained by, transferred to, or credited to the Bureau Fund under this section. Funds obtained by or transferred to the Bureau Fund shall not be construed to be Government funds or appropriated monies.

- Reference: 12 U.S.C. § 5497(b)-(c) (2017)

- There is established in the Federal Reserve a separate fund, to be known as the “Consumer Financial Civil Penalty Fund” . . .Amounts in the Civil Penalty Fund shall be available to the Bureau, without fiscal year limitation, for payments to the victims of activities for which civil penalties have been imposed under Federal consumer financial laws. To the extent that such victims cannot be located or such payments are otherwise not practicable, the Bureau may use such funds for the purpose of consumer education and financial literacy programs.

- Reference: 12 U.S.C. § 5497(d) (2017)

*Reporting Requirements:* The Director shall present an annual report to Congress not later than March 31 of each year on the complaints received by the Bureau in the prior year regarding consumer financial products and services.

- Reference: 12 U.S.C. § 5493(b)(3)(C) (2017)

- The Office of Fair Lending and Equal Opportunity shall have such powers and duties as the Director may delegate to the Office, including. . .providing annual reports to Congress on the efforts of the Bureau to fulfill its fair lending mandate.

- Reference: 12 U.S.C. § 5493(c)(2)(D) (2017)

- Not later than 24 months after the designated transfer date, and annually thereafter, the Director shall submit a report on its financial literacy activities and strategy to improve the financial literacy of consumers to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

- Reference: 12 U.S.C. § 5493(d)(4) (2017)

- The Bureau shall, concurrent with each semi-annual hearing referred to in subsection (a), prepare and submit to. . .the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services and the Committee on Energy and Commerce of the House of Representatives, a report, beginning with the session following the designated transfer date. The Bureau may also submit such report to the Committee on Commerce, Science, and Transportation of the Senate.

- Reference: 12 U.S.C. § 5496(b) (2017)

- When making a determination under subparagraph (A) [that sums available to the Bureau will not be sufficient to carry out the authorities of the Bureau], the Director shall prepare

a report regarding the funding of the Bureau, including assets and liabilities of the Bureau, and the extent to which the funding needs of the Bureau are anticipated to exceed the level of the amount set forth in subsection (A)(2). The Director shall submit the report to . . .the Committee of Appropriations of the Senate and the Committee on Appropriations of the House of Representatives.

- Reference: 12 U.S.C. § 5497(e)(1)(B) (2017)
- The Director shall prepare and submit a report, on an annual basis, to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives regarding the financial operating plans and forecasts of the Director, the financial condition and results of operations of the Bureau, and the sources and application of funds of the Bureau, including any funds appropriated in accordance with this subsection.
  - Reference: 12 U.S.C. § 5497(e)(4) (2017)
- The Bureau shall conduct a study of, and provide a report to Congress concerning, the use of agreements providing for arbitration of any future dispute between covered persons and consumers in connection with the offering or providing of consumer financial products or services.
  - Reference: 12 U.S.C. § 5518(a) (2017)
- Whenever the Bureau determines not to prescribe a final regulation [in response to a majority of the states enacting a resolution in support of the establishment or modification of a consumer protection regulation by the Bureau], [the Bureau] shall publish an explanation of such determination in the Federal Register, and provide a copy of such explanation to . . .the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.
  - Reference: 12 U.S.C. § 5551(c)(3) (2017)

*Review Commissions:* On the petition of a member agency of the Council, the Council may set aside a final regulation prescribed by the Bureau, or any provision thereof, if the Council decides, in accordance with subsection (c), that the regulation or provision would put the safety and soundness of the United States banking system or the stability of the financial system of the United States at risk.

- Reference: 12 U.S.C. § 5513(a) (2017)

*Advisory Commissions:* The Director shall establish a Consumer Advisory Board to advise and consult with the Bureau in the exercise of its functions under the Federal consumer financial laws, and to provide information on emerging practices in the consumer financial products or services industry, including regional trends, concerns, and other relevant information.

- Reference: 12 U.S.C. § 5494 (2017)

*Action Require Outside Approval:* The Bureau and the Federal Trade Commission shall negotiate an agreement for coordinating with respect to enforcement actions by each agency regarding the offering or provision of consumer financial products or services by any covered person that is described in subsection (a)(1) or service providers thereto. The agreement shall include procedures for notice to the other agency, where feasible, prior to initiating a civil action to enforce any Federal law regarding the offering or provision of consumer financial products or services.

- Reference: 12 U.S.C. § 5514(c)(3)(A) (2017)

- Except as provided under subparagraphs (B) and (C), the Bureau may not exercise any rulemaking or enforcement authority with respect to products or services that relate to any specified plan or arrangement. The Secretary [of the Treasury] and the Secretary of Labor may jointly issue a written request to the Bureau regarding implementation of appropriate consumer protection standards under this title with respect to the provision of services relating to any specified plan or arrangement. In response to a request by the Bureau, the Secretary and the Secretary of Labor shall jointly issue a written response, not later than 90 days after receipt of such request, to grant or deny the request of the Bureau regarding implementation of appropriate consumer protection standards under this title with respect to the provision of services relating to any specified plan or arrangement.
  - Reference: 12 U.S.C. § 5517(g)(3)(B) (2017)
- In carrying out this paragraph [regarding consultation and coordination with the Federal Trade Commission regarding consumer financial products or services] the agencies shall negotiate an agreement to establish procedures for such coordination, including procedures for providing advance notice to the Bureau when the Commission is initiating a rulemaking.
  - Reference: 12 U.S.C. § 5517(i)(2) (2017)
- The Bureau shall enter into a memorandum of understanding with any affected Federal regulatory agency regarding procedures by which any covered person, and the prudential regulators, and any other agency having jurisdiction over a covered person, including the Secretary of the Department of Housing and Urban Development and the Secretary of Education, shall comply with this section [response to consumer complaints and inquiries].
  - Reference: 12 U.S.C. § 5534(d) (2017)
- The Bureau may represent itself in its own name before the Supreme Court of the United States, provided that the Bureau makes a written request to the Attorney General within the 10-day period which begins on the date of entry of the judgment which would permit any party to file a petition for writ of certiorari, and the Attorney General concurs with such request or fails to take action within 60 days of the request of the Bureau.
  - Reference: 12 U.S.C. § 5564(e) (2017)

*Legislative Veto:* None

*Adjudication:* The Bureau is authorized to conduct hearings and adjudication proceedings with respect to any person in the manner prescribed by chapter 5 of Title 5 in order to ensure or enforce compliance with the provisions of this title, including any rules prescribed by the Bureau under this title and any other Federal law that the Bureau is authorized to enforce, including an enumerated consumer law, and any regulations or order prescribed thereunder, unless such federal law specifically limits the Bureau from conducting a hearing or adjudication proceeding and only to the extent of such limitation.

- Reference: 12 U.S.C. § 5563(a) (2017)
- If, in the opinion of the Bureau, any covered person or service provider is engaging or has engaged in an activity that violates a law, rule, or any condition imposed in writing on the person by the Bureau, the Bureau, subject to sections 5514, 5515, and 5516 of this title, issue and serve upon the covered person or service provider a notice of charges in respect thereof. . In the event of consent under subparagraph (C) [for failure to appear], or if, upon the record, made at any such hearing, the Bureau finds that any violation specified

in the notice of charges has been established, the Bureau may issue and serve upon the covered person or service provider an order to cease and desist from the violation or practice. . . Any hearing provided for in this subsection. . . shall be conducted in accordance with the provisions of chapter 5 of Title 5.

- Reference: 12 U.S.C. § 5563(b) (2017)

### **BROADCASTING BOARD OF GOVERNORS**

*Date of Creation:* April 30, 1994<sup>55</sup>

*Statute:* 22 U.S.C. §§ 6201-6216 (2017)<sup>56</sup>

*Authorizing Language:* The Broadcasting Board of Governors shall continue to exist within the Executive branch of the Government.<sup>57</sup>

- Reference: 22 U.S.C. § 6203(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* None

*Agency Specific Personnel:* The Chief Executive Officer shall have the following authorities. . . to appoint such personnel for the Chief Executive Officer as the Chief Executive Officer may determine to be necessary, which shall not be subject to the provisions of Title 5 governing appointments in the competitive service, and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

- Reference: 22 U.S.C. § 6204(a)(11) (2017)

*Limitation on Appointment:* None

*Party Balancing:* None

*Fixed Terms:* The first Chief Executive Officer appointed shall serve for an initial term of three years.

- Reference: 22 U.S.C. § 6203(b)(2) (2017)

*Staggered Terms:* N/A

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* Notwithstanding any other provision of law, until such time as a Chief Executive Office is appointed and has qualified, the current or acting Chief Executive Officer appointed by the Board may continue to serve and exercise the authorities and powers under this chapter.

- Reference: 22 U.S.C. § 6203(b)(1) (2017)

*Acting Service Rules:* None

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<sup>55</sup> International Broadcasting Act, Pub. L. No. 103-236, 108 Stat. 435 (1994).

<sup>56</sup> In 2016, Congress amended 22 U.S.C. § 6203 and eliminated the provisions relating to the composition of the Board. Pub. L. No. 114-328 § 1288(1) (2016). The presidentially appointed and Senate-confirmed members of the Board who served on unexpired terms as of December 23, 2016, became members of the first International Broadcasting Advisory Board and were to hold office for the remainder of their original terms of office without reappointment to the Advisory Board. 22 U.S.C. § 6205(b) (2017).

Because the statute no longer contains provisions relating to the Board's composition and powers, but maintains that the Board shall continue to exist, the provisions referenced in this Appendix are a combination the last version of the Code to provide for the Board's composition (2016) and the current U.S. Code.

<sup>57</sup> Note that the Chief Executive Office has the authority to change the name of the Board as long as he notifies Congress 60 days prior to the change. 22 U.S.C. § 6204(a)(22) (2017).

*Who is Head of Agency:* The head of the Broadcasting Board of Governors shall be a Chief Executive Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 22 U.S.C. § 6203(b)(1) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* The Chief Executive Officer shall . . .submit to . . .the Congress an annual report which summarizes and evaluates the activities under this chapter, the Radio Broadcasting to Cuba Act, and the Television Broadcasting to Cuba Act.

- Reference: 22 U.S.C. § 6204(a)(9) (2017)
- The Chief Executive Officer [may]. . .redirect or reprogram funds within the scope of any grant or cooperative agreement, or between grantees, as necessary (and not later than 15 days before any such redirection of funds between language services, to notify the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives and the Committee on Appropriations and the Committee on Foreign Relations of the Senate regarding such redirection.
  - Reference: 22 U.S.C. § 6204(a)(21) (2017)
- Not later than 90 days after confirmation of all members of the [RFE/RL] Board, the Board shall provide a report to Congress on the number of administrative, managerial, and technical staff of FRE/RL, Incorporated who will be located with the metropolitan area of Washington, D.C. and the number of employees whose principal place of business will be located outside the metropolitan area of Washington, D.C.
  - Reference: 22 U.S.C. § 6207(b)(2) (2017)
- Not later than 3 years after the date on which initial funding is provided for the purpose of operating Radio Free Asia, the Board shall submit to the appropriate congressional committees a report on whether Radio Free Asia is technically sound and cost-effective, whether Radio Free Asia consistently meets the standards for quality and objectivity established by this chapter, whether Radio Free Asia is received by a sufficient audience to warrant its continuation, the extent to which such broadcasting is already being received by the target audience from other credible sources, and the extent to which the interest of the United States are being served by maintaining broadcasting of Radio Free Asia.
  - Reference: 22 U.S.C. § 6208(e) (2017)
- The Board shall notify the appropriate congressional committees before entering into any agreements for the utilization of Voice of America transmitters, equipment, or other resources that will significantly reduce the broadcasting activities of the Voice of America in Asia or any other region in order to accommodate the broadcasting activities of Radio Free Asia, or entering into any agreements in regard to the utilization of Radio Free Asia transmitters, equipment, or other resources that will significantly reduce the broadcasting activities of Radio Free Asia.
  - Reference: 22 U.S.C. § 6208(f)(1) (2017)
- The Chief Executive Officer, subject to the regular notification procedures of the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives and the Committee on Appropriations and the Committee on Foreign Relations of the Senate, who is authorized to incorporate a grantee, may condition annual

grants to RFE/RL, Inc., Radio Free Asia, and the Middle East Broadcasting Networks on the consolidation of such grantees into a single, consolidated private, nonprofit corporation. . . in such manner and under such conditions as determined by the Chief Executive Officer, which may broadcast and provide news and information to audiences wherever the agency may broadcast, for activities that the Chief Executive Officer determines are consistent with the purposes of this chapter.

- Reference: 22 U.S.C. § 6209(a)(1) (2017)

*Review Commissions:* None

*Advisory Commissions:* The International Broadcasting Advisory Board shall. . . advise the Chief Executive Office of the Broadcasting Board of Governors, as appropriate.

- Reference: 22 U.S.C. § 6205 (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## CENTRAL INTELLIGENCE AGENCY

*Date of Creation:* July 26, 1947<sup>58</sup>

*Statute:* 50 U.S.C. §§ 3035-3037; 3501-3524 (2017)

*Authorizing Language:* There is a Central Intelligence Agency.

- Reference: 50 U.S.C. § 3035(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:*<sup>59</sup> The Director may pay to officers and employees of the Agency. . . allowances and benefits comparable to the allowances and benefits authorized to be paid to members of the Foreign Service.

- Reference: 50 U.S.C. § 3505(b)(1) (2017)
- In performance of its functions, the Central Intelligence Agency is authorized to. . . determine and fix the minimum and maximum limits of age within which an original appointment may be made to an operational position within the Agency, notwithstanding the provision of any other law, in accordance with such criteria as the Director, in his discretion, may prescribe.
  - Reference: 50 U.S.C. § 3506(a)(6) (2017)
- In the interests of the security of the foreign intelligence activities of the United States and in order further to implement this title. . . , the Agency shall be exempted from provisions of [5 U.S.C. § 654] and the provisions of any other law which require the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency.
  - Reference: 50 U.S.C. § 3507 (2017)
- Notwithstanding any other provision of law, an officer or employee of the Central Intelligence Agency subject to retirement system coverage under subchapter III or chapter 83 of Title 5 who has five years of civilian service credit toward retirement. . . ;

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<sup>58</sup> National Security Act, Pub. L. No. 80-253, 61 Stat. 495 (1947).

<sup>59</sup> The Central Intelligence Agency's employees are not considered employees for the purposes of Title 5. 5 U.S.C. § 5102(a)(1)(v); (2) (2017).

has not been designated under section 2013 of this title as a participant in the Central Intelligence Agency Retirement and Disability System; has become disabled during a period of assignment to the performance of duties that are qualifying toward such designation under such section 2013 of this title; and satisfies the requirements for disability retirement under section 8337 of Title 5 shall, upon his own application or upon order of the Director, be retired on an annuity computed in accordance with the rules prescribed in section 2051 of this title, in lieu of an annuity computed as provided by section 8337 of Title 5.

- Reference: 50 U.S.C. § 3519(a) (2017)
- Notwithstanding any other provision of law, in the case of an officer or employee of the Central Intelligence Agency subject to retirement system coverage under subchapter III of chapter 83, Title 5, who has at least eighteen months of civilian service credit toward retirement. . .; has not been under section 2013 of this title as a participant in the Central Intelligence Agency Retirement and Disability System; prior to separation or retirement from the Agency, dies during a period of assignment to the performance of duties that are qualifying toward such designation under such section 2013 of this title; and is survived by a surviving spouse, former spouse, or child as defined in section 2002 of this title, who would otherwise be entitled to an annuity under section 8341 of Title 5, such surviving spouse, former spouse, or child of such officer or employee shall be entitled to an annuity computed in accordance with section 2052 of this title, in lieu of an annuity computed in accordance with section 8341 of Title 5.
  - Reference: 50 U.S.C. § 3519(b) (2017)
- In order to avoid or minimize the need for involuntary separations due to downsizing, reorganization, transfer of function, or other similar action, the Director may establish a program under which employees may be offered separation pay to separate from service voluntarily (whether be retirement or resignation).
  - Reference: 50 U.S.C. § 3519a (2017)
- Notwithstanding the provisions of any other law, the Director of the Central Intelligence Agency may, in the discretion of the director, terminate the employment of any officer or employee of the Central Intelligence Agency whenever the Director deems the termination of employment of such officer or employee necessary or advisable in the interest of the United States.
  - Reference: 50 U.S.C. § 3036(e)(1) (2017)

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* The Deputy Director of the Central Intelligence Agency shall. . .during the absence or disability of the Director of the Central Intelligence Agency, or during a vacancy in the position of Director of the Central Intelligence Agency, act for and exercise the powers of the Director of the Central Intelligence Agency.

- Reference: 30 U.S.C. § 3037(b)(2) (2017)

*Who is Head of Agency:* There is a Director of the Central Intelligence Agency who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 50 U.S.C. § 3036(a) (2017)
- The Director of the Central Intelligence Agency shall serve as the head of the Central Intelligence Agency.
  - Reference: 50 U.S.C. § 3036(c)(1) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The sums made available to the Agency may be expended without regard to the provisions of law and regulations relating to the expenditure of Government funds, and for objects of a confidential, extraordinary, or emergency nature, such expenditures to be accounted for solely on the certificate of the Director and every such certificate shall be deemed a sufficient voucher for the amount therein certified.

- Reference: 50 U.S.C. § 3510(b) (2017)
- Subject to the provisions of this section, the Director may accept, hold, administer, and use gifts of money, securities, and other property whenever the Director determines it would be in the interest of the United States to do so. Any gift accepted by the Director as a gift to the Agency under this subsection (and any income produced by any such gift) may be used only for artistic display, purposes relating to the general welfare, education, or recreation of employees or dependents of employees of the Agency or for similar purposes, or for purposes relating to the welfare, education, or recreation of an individual described in paragraph (3) [employees and former employees who suffered injury or illness while employed by the Agency that resulted from terrorist activities, intelligence activities, or other similar circumstances, or their families] and under no circumstances may such gift (or any income produced by such gift) be used for operational purposes. Unless otherwise restricted by the terms of the gift, the Director may sell or exchange, or invest or reinvest, any property which is accepted under subsection (a), but any such investment may only be in interest bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.. There is hereby created on the books of the Treasury of the United States a fund into which gifts of money, securities, and other intangible property accepted under the authority of subsection (a), and the earnings and proceeds thereof, shall be deposited. The assets of such fund shall be disbursed upon the order of the Director for the purposes specified in subsection (a).
  - Reference: 50 U.S.C. § 3512(a)-(e) (2017)
- There is established a fund to be known as the Central Services Working Capital Fund. . The purpose of the Fund is to provide sums for activities under the program. There shall be deposited in the Fund the following: Amounts appropriated to the Fund; Amounts credited to the Fund from payments received by central service providers under subsection (e) of this section; Fees imposed and collected under subsection (f)(1) of this section; Amounts received in payment for loss or damage to equipment or property of a central service provider as a result of activities under the program; Other receipts from the sale or exchange of equipment, recyclable materials, or property of a central service provider as a result of the activities under the program; Receipts from individuals in reimbursement for utility services and meals provided under the program; Receipts from individuals for the rental of property and equipment under the program; Such other

amounts as the Director is authorized to deposit in or transfer to the Fund. Amounts in the Fund shall be available, without fiscal year limitation, for the following purposes: to pay the costs of providing items or services under the program; to pay the costs of carrying out activities under subsections (b)(1)(D) and (f)(2) of this section.

- Reference: 50 U.S.C. § 3521(c) (2017)
- The Director may permit a central service provider to impose and collect a fee with respect to the provision of an item or service under the program. The amount of the fee may not exceed an amount equal to four percent of the payment received by the provider for the item or service.

- Reference: 50 U.S.C. § 3521(f) (2017)

*Reporting Requirements:* Regulations, other than regulations under paragraph (1), issued pursuant to this subsection [regarding personnel allowances and benefits] shall be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate before such regulations take effect.

- Reference: 50 U.S.C. § 3505(b)(5) (2017)
- The Director shall submit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives a report on the transfer of sums described in paragraph (1) [relating to the acquisition of land] each time that authority is exercised.
- Reference: 50 U.S.C. § 3506(c)(2) (2017)
- Regulations issued pursuant to this section [regarding benefits available in event of the death of personnel] shall be submitted to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives before such regulations take effect.
- Reference: 50 U.S.C. § 3511(b) (2017)
- Not later than the date that is in 7 days after the date the Director engages in fundraising [for nonprofit organizations that provide support to surviving family members of deceased Agency employees or that otherwise provide support for the welfare, education, or recreation of Agency employees, former Agency employees, or their family members] authorized by this subsection or at the time the decision is made to participate in such fundraising, the Director shall notify the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives of the fundraising.
- Reference: 50 U.S.C. § 3512(g) (2017)
- The Inspector General shall, not later than October 31 and April 30 of each year, prepare and submit to the Director a classified semiannual report summarizing the activities of the Office during the immediately preceding six-month periods ending September 30 and March 31, respectively. Not later than 30 days after the date of receipt of such reports, the Director shall transmit such reports to the intelligence committees with any comments he may deem appropriate.
- Reference: 50 U.S.C. § 3517(d)(1) (2017)
- The Inspector General shall report immediately to the Director whenever he becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of program or operations. The Director shall transmit such report to the

intelligence committees within seven calendar days, together with any comments he considers appropriate.

- Reference: 50 U.S.C. § 3517(d)(2) (2017)
- In the event that the Inspector General is unable to resolve any differences with the Director affecting the execution of the Inspector General's duties or responsibilities; an investigation, inspection, or audit carried out by the Inspector General should focus on any current or former Agency official who [holds a PAS or equivalent position]; a matter requires report by the Inspector General to the Department of Justice on possible criminal conduct by a current or former Agency official [who holds a PAS or equivalent position]; the Inspector General receives notice from the Department of Justice declining or approving prosecution of possible criminal conduct of any of the officials [who hold a PAS or equivalent position]; or the Inspector General, after exhausting all possible alternatives, is unable to obtain significant documentary information in the course of an investigation, inspection, or audit, the Inspector General shall immediately notify and submit a report on such matter to the intelligence committees.
  - Reference: 50 U.S.C. § 3517(d)(3) (2017)
- The Director shall submit to the intelligence committees any report or findings and recommendations of an inspection, investigation, or audit conducted by the office which has been requested by the Chairman or Ranking Minority Member of either committee.
  - Reference: 50 U.S.C. § 3517(d)(4) (2017)
- Upon receipt of a transmittal from the Inspector General under subparagraph (B) [relating to complaint by Agency employee], the Director shall, within 7 calendar days of such receipt, forward such transmittal to the intelligence committees, together with any comments the Director considers appropriate.
  - Reference: 50 U.S.C. § 3517(d)(5)(C) (2017)
- The Director may not make an offering of voluntary separation pay. . . until 30 days after submitting to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report describing the occupational groups or geographic locations or other similar limitations or conditions.
  - Reference: 50 U.S.C. § 3519a(g)(1) (2017)
- The Director of the Central Intelligence Agency and the Director of the Office of Management and Budget may not undertake any action under paragraph (1) [relating to the termination of the Central Services Working Capital Fund] until 60 days after the date on which the Directors jointly submit notice of such action to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.
  - Reference: 50 U.S.C. § 3521(g)(2) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* The Director shall cause a seal of office to be made for the Central Intelligence Agency, of such design as the President shall approve.

- Reference: 50 U.S.C. § 3502 (2017)
- The Director of the Central Intelligence Agency and the Director of the Office of Management and Budget, acting jointly, may terminate the program and the Central Services Working Capital Fund at any time and upon such termination, shall provide for

the disposition of the personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the program or Fund.

- Reference: 50 U.S.C. 3521(g)(1) (2017)

*Legislative Veto:* None

*Adjudication:* None

## **CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD**

*Date of Creation:* November 15, 1990<sup>60</sup>

*Statute:* 42 U.S.C. § 7412(r)(6) (2017)

*Authorizing Language:* There is hereby established an independent safety board to be known as the Chemical Safety and Hazard Investigation Board.

- Reference: 42 U.S.C. § 7412(r)(6)(A) (2017)

*Commissioners/Board Members:* The Board shall consist of 5 members, including a Chairperson, who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 42 U.S.C. § 7412(r)(6)(B) (2017)

*Quorum Rules:* None

*Agency Specific Personnel:* None

*Limitation on Appointment:* Members of the Board shall be appointed on the basis of technical qualification, professional standing, and demonstrated knowledge in the fields of accident reconstruction, safety engineering, human factors, toxicology, or air pollution regulation.

- Reference: 42 U.S.C. § 7412(r)(6)(B) (2017)

*Party Balancing:* None

*Fixed Terms:* The terms of office of members of the Board shall be 5 years.

- Reference: 42 U.S.C. § 7412(r)(6)(B) (2017)

*Staggered Terms:* None

*For Cause:* Any member of the Board, including the Chairperson, may be removed for inefficiency, neglect of duty, or malfeasance in office.

- Reference: 42 U.S.C. § 7412(r)(6)(B) (2017)
- The President may remove any member, officer or employee of the Board for inefficiency, neglect of duty or malfeasance in office.
- Reference: 42 U.S.C. § 7412(r)(6)(R) (2017)

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The Chairperson shall be the Chief Executive Officer of the Board and shall exercise the executive and administrative functions of the Board.

- Reference: 42 U.S.C. § 7412(r)(6)(B) (2017)

*OMB Review:* Whenever the Board submits or transmits any budget estimate, budget request, supplemental budget request, or other budget information, legislative recommendation,

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<sup>60</sup> Congress originally authorized the Board in 1990. Clean Air Act Amendments, Pub. L. No. 101-549, 104 Stat. 2399 (1990). However, the Board did not become operational until 1998.

prepared testimony for congressional hearings, recommendation or study to the President, the Secretary of Labor, the Administrator [of the EPA], or the Director of the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. . . No officer or agency of the United States shall have authority to require the Board to submit its budget requests or estimates, legislative recommendations, prepared testimony, comments, recommendations or reports to any officer or agency of the United States for approval or review prior to the submission of such recommendations, testimony, comments or reports to the Congress.

- Reference: 42 U.S.C. § 7412(r)(6)(R) (2017)<sup>61</sup>

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* The Board shall submit an annual report to the President and to the Congress which shall include, but not be limited to, information on accidental releases which have been investigated by or reported to the Board during the previous year, recommendations for legislative or administrative action which the Board as made, the actions which have been taken by the Administrator or the Secretary of Labor or the heads of other agencies to implement such recommendations, an identification of priorities for study and investigation in the succeeding year, progress in the development of risk-reduction technologies and the response to and implementation of significant research findings on chemical safety in the public and private sector.

- Reference: 42 U.S.C. § 7412(r)(6)(S) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* The Board, or upon authority of the Board, any member thereof, any administrative law judge employed by or assigned to the Board, or any officer or employee duly designated by the Board, may for the purpose of carrying out duties authorized by subparagraph (C), hold such hearings, sit and act at such times and places, administer such oaths, and require by subpoena or otherwise attendance and testimony of such witnesses and the production of evidence and may require by order that any person engaged in the production, processing, handling, or storage of extremely hazardous substances submit written reports and responses to requests and questions within such time and in such form as the Board may require.

- Reference: 42 U.S.C. § 7412(r)(6)(L) (2017)

## **COMMODITY FUTURES TRADING COMMISSION**

*Date of Creation:* October 23, 1974<sup>62</sup>

*Statute:* 7 U.S.C. §§ 1-27f (2017)

*Authorizing Language:* There is hereby established, as an independent agency of the United States Government, a Commodity Futures Trading Commission.

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<sup>61</sup> See also, Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget “Bypass” Authorities (Feb. 20, 2001), *available at* <http://www.citizen.org/documents/OMBDocument1.pdf>.

<sup>62</sup> Commodity Futures Trading Commission Act of 1974, Pub. L. No. 93-463, 88 Stat. 1389 (1974).

- Reference: 7 U.S.C. § 2(a)(2)(A) (2017)

*Commissioners/Board Members:* The Commission shall be composed of five Commissioners who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 7 U.S.C. § 2(a)(2)(A) (2017)

*Quorum Rules:* None

*Agency Specific Personnel:* Rates of basic pay for all employees of the Commission may be set and adjusted by the Commission without regard to chapter 51 or subchapter III of chapter 53 of Title 5.

- Reference: 7 U.S.C. § 2(a)(7)(B) (2017)

*Limitation on Appointment:* In nominating persons for appointment, the President shall select persons who shall each have demonstrated knowledge in futures trading or its regulation, or the production, merchandizing, processing or distribution of one or more of the commodities or other goods and articles, services, rights, and interests covered by this chapter and seek to ensure that the demonstrated knowledge of the Commissioners is balanced with respect to such areas.

- Reference: 7 U.S.C. § 2(a)(2)(A) (2017)

*Party Balancing:* Not more than three of the members of the Commission shall be members of the same political party.

- Reference: 7 U.S.C. § 2(a)(2)(A) (2017)

*Fixed Terms:* Each Commissioner shall hold office for a term of five years.

- Reference: 7 U.S.C. § 2(a)(2)(A) (2017)

*Staggered Terms:* The terms of office of the Commissioners first taking office after the enactment of this paragraph shall expire as designated by the President at the time of nomination, one at the end of one year, one at the end of two years, one at the end of three years, one at the end of four years, and one at the end of five years.

- Reference: 7 U.S.C. § 2(a)(2)(A) (2017)

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* Each Commissioner shall hold office. . .until his successor is appointed and has qualified, except that he shall not so continue to serve beyond the expiration of the next session of Congress subsequent to the expiration of said fixed term of office.

- Reference: 7 U.S.C. § 2(a)(2)(A) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* The President shall appoint, by and with the advice and consent of the Senate, a member of the Commission as Chairman, who shall serve as Chairman at the pleasure of the President. An individual may be appointed Chairman at the same time that person is appointed as Commissioner.. The Chairman shall be the chief administrative officer of the Commission and shall preside at hearings before the Commission. At any time, the President may appoint, by and with the advice and consent of the Senate, a different Chairman, and the Commissioner previously appointed as Chairman may complete that Commissioner's term as a commissioner.

- Reference: 7 U.S.C. § 2(a)(2)(B) (2017)

*OMB Review:*<sup>63</sup> There are hereby reserved to the Commission its functions with respect to revising budget estimates and with respect to determining the distribution of appropriated funds according to major programs and purposes.

- Reference: 7 U.S.C. § 2(a)(6)(E) (2017)
- Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit copies of that estimate or request to the House and Senate Appropriations Committees and the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry.
  - Reference: 7 U.S.C. § 2(a)(10)(A) (2017)
- Whenever the Commission transmits any legislative recommendations, or testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit copies thereof to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, or testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to Congress. In instances in which the Commission voluntarily seeks to obtain the comments or review of any officer or agency of the United States, the Commission shall include a description of such actions in its legislative recommendations, testimony, or comments on legislation which it transmits to the Congress.
  - Reference: 7 U.S.C. § 2(a)(10)(B) (2017)

*Independent Litigating:* Whenever it shall appear to the Commission that any registered entity has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule, regulation, or order thereunder, or is restraining trading in any commodity for future delivery or any swap, the Commission may bring an action in the proper district court of the United States or the proper United States court of any territory or any other place subject to the jurisdiction of the United States, to enjoin such act or practice or to enforce compliance with this chapter, or any rule, regulation or order thereunder, and said courts shall have jurisdiction to entertain such actions.

- Reference: 7 U.S.C. § 13a-1(a) (2017)
- In lieu of bringing actions itself pursuant to this section, the Commission may request the Attorney General to bring the action.
  - Reference: 7 U.S.C. § 13a-1(f) (2017)
- Where the Commission elects to bring the action, it shall inform the Attorney General of such suit and advise him of subsequent developments.
  - Reference: 7 U.S.C. § 13a-1(g) (2017)

*Independent Sources of Funding:* The Commission is authorized to . . . fix and establish from time to time reasonable fees and charges for registrations and renewals [of registered entities].

- Reference: 7 U.S.C. § 12a(1) (2017)

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<sup>63</sup> The Commodity Futures Trading Commission is identified as an “independent regulatory agency” and thus is exempt from OMB rule review. See Exec. Order No. 12866, 58 Fed. Reg. 51735 (1993); 44 U.S.C. § 3502(5) (2017). See also, Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget “Bypass” Authorities (Feb. 20, 2001), available at <http://www.citizen.org/documents/OMBDocument1.pdf>.

- Notwithstanding any other provision of law, the Commission may accept payment and reimbursement, in cash or in kind, for a foreign futures authority, or made on behalf of such authority, for necessary expenses incurred by the Commission, its members, and employees in carrying out any investigation or in providing any other assistance to a foreign futures authority, pursuant to this section. Any payment or reimbursement accepted shall be considered a reimbursement to the appropriated funds of the Commission.
  - Reference: 7 U.S.C. § 16(f)(3) (2017)
- Notwithstanding any other provision of law, the Commodity Futures Trading Commission may develop and implement a plan to charge and collect reasonable fees to cover the estimated cost of regulating transactions under the jurisdiction of the Commission. . . Fees collected under any plan approved under this section shall be deposited in the Treasury of the United States as miscellaneous receipts.
  - Reference: 7 U.S.C. § 16a(a) (2017)
- In addition to the fees and charges authorized by section 12a(1) of this title, each person registered under this chapter, who is not a member of a futures association registered pursuant to this section, shall pay to the Commission such reasonable fees and charges as may be necessary to defray the costs of additional regulatory duties required to be performed by the Commission because such person is not a member of a registered futures association. The Commission shall establish such additional fees and charges by rules and regulations.
  - Reference: 7 U.S.C. § 21(d) (2017)
- There is established in the Treasury of the United States, a revolving fund to be known as the “Commodity Futures Trading Commission Customer Protection Fund.” The Fund shall be available to the Commission, without further appropriation or fiscal year limitation, for the payment of awards to whistleblowers . . . and the funding of customer education initiatives designed to help customers protect themselves against fraud or other violations of this chapter, or the rules and regulations thereunder. There shall be deposited into or credited to the Fund: Any monetary sanctions collected by the Commission in any covered judicial or administrative action that is not otherwise distributed to victims of a violation of this chapter or the rules and regulations thereunder underlying such action, unless the balance of the Fund at the time the monetary judgment is collected exceeds \$100,000,000; If the amounts deposited into or credited to the Fund . . . are not sufficient to satisfy an award made under subsection (b), there shall be deposited into or credited to the Fund an amount equal to the unsatisfied portion of the award from any monetary sanction collected by the Commission in any judicial or administrative action brought by the Commission under this chapter that is based on information provided by a whistleblower; All income from investments made [by the Secretary of the Treasury at the request of the Commission].
  - Reference: 7 U.S.C. § 26(g) (2017)

*Reporting Requirements:*<sup>64</sup> Prior to implementing such a plan [to charge and collect fees], the Commission shall report its intention to do so to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry.

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<sup>64</sup> There are references in the statute to information to be included in the Commission’s annual report. E.g., 7 U.S.C. §§ 21(n), 22(b) (2017). However, the requirement that the Commodity Futures Trading Commission submit an

- Reference: 7 U.S.C. § 16a(a) (2017)
- Not later than October 30 of each year, the Commission shall transmit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report on the Commission's whistleblower award program under this section.
  - Reference: 7 U.S.C. § 26(g)(5) (2017)

*Review Commissions:* None

*Advisory Commissions:* An Energy and Environmental Markets Advisory Committee is hereby established. . .to submit reports and recommendations to the Commission (including dissenting or minority views, if any) and otherwise to serve as a vehicle for discussion and communication on matters of concern to exchanges, firms, end users, and regulators regarding energy and environmental markets and their regulation by the Commission.

- Reference: 7 U.S.C. § 2(a)(15)(A) (2017)

*Action Require Outside Approval:* An index is not a narrow-based security index if. . .a contract of sale for future delivery on the index is traded on or subject to the rules of a foreign board of trade and meets such requirements as are jointly established by rule or regulation by the Commission and the Securities and Exchange Commission.

- Reference: 7 U.S.C. § 1a(35)(B)(iv) (2017)
- The Commission and the Securities and Exchange Commission shall, by rule or regulation, jointly specify the method to be used to determine market capitalization and dollar value of average daily trading.
  - Reference: 7 U.S.C. § 1a(35)(E)(ii) (2017)
- After 3 years after December 21, 2000, the Commission and the Securities and Exchange Commission may by order jointly determine to permit trading of options on any security future authorized to be traded under the provisions of this chapter and the Securities Exchange Act of 1934.
  - Reference: 7 U.S.C. § 2(a)(1)(D)(iii)(II) (2017)
- The Commission and the Securities and Exchange Commission, by rule, regulation, or order, may jointly modify the criteria specified in subclause (I) or (III) of clause (i), including the trading of security futures based on securities other than equity securities, to the extent such modification fosters the development of fair and orderly markets in security futures products, is necessary or appropriate in the public interest, and is consistent with the protection of investors.
  - Reference: 7 U.S.C. § 2(a)(1)(D)(v)(I) (2017)
- The Commission and the Securities and Exchange Commission, by order, may jointly exempt any person from compliance with the criterion specified in clause i(IV) to the extent such exemption fosters the development of fair and orderly market in securities futures products, is necessary or appropriate in the public interest, and is consistent with the protection of investors.
  - Reference: 7 U.S.C. § 2(a)(1)(D)(v)(II) (2017)
- The Commission and the Securities and Exchange Commission shall jointly publish in the Federal Register a notice of the compliance date no later than 165 days before the compliance date.

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annual report to Congress detailing the Commission's operations terminated effective May 15, 2000. Federal Reports Elimination and Sunset Act, Pub. L. No. 104-66, 109 Stat. 707 (1995).

- Reference: 7 U.S.C. § 2(a)(1)(D)(vi)(II) (2017)
- To the extent necessary or appropriate in the public interest, to promote fair competition, and consistent with the promotion of market efficiency, innovation, and expansion of investment opportunities, the protection of investors, and the maintenance of fair and orderly markets, the Commission and the Securities and Exchange Commission shall jointly issue such rules, regulation, or orders as are necessary and appropriate to permit the offer and sale of a security futures product traded on or subject to the rules of a foreign board of trade to United States persons.
  - Reference: 7 U.S.C. § 2(a)(1)(E)(i) (2017)
- The Commission and the Securities and Exchange Commission may by rule, regulation, or order jointly exclude any agreement, contract, or transaction from section 2(a)(1)(D) of this title if the Commissioners determine that the exemption would be consistent with the public interest.
  - Reference: 7 U.S.C. § 6(c)(1)(B) (2017)
- Before commencing a rulemaking or making a determination pursuant to a rule issued under sections 27 to 27f of this title, the Commodity Futures Trading Commission shall consult with and seek the concurrence of the Board of Governors of the Federal Reserve System concerning the nature of the hybrid instrument and the history, purpose, extent, and appropriateness of the regulation of the hybrid instrument under the Commodity Exchange Act and under appropriate banking laws.
  - Reference: 7 U.S.C. § 27d(b) (2017)

*Legislative Veto:* Any plan developed [to collect and charge fees] under this section shall not be implemented until approved by the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry.

- Reference: 7 U.S.C. § 16a(a) (2017)

*Adjudication:*<sup>65</sup> Such suspension or revocation [of the designation or registration of any contract market or derivatives transaction execution facility] shall only be made after a notice to the officers of the contract market or derivatives transaction execution facility or electronic trading facility affected and upon a hearing on the record.

- Reference: 7 U.S.C. § 8(b) (2017)
- For the purpose of securing effective enforcement of the provisions of this chapter, for the purpose of any investigation or proceeding under this chapter, and for the purpose of any action taken under section 16(f) of this title, any member of the Commission or any Administrative Law Judge or other officer designated by the Commission (except as provided in paragraph (7)) may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records that the Commission deems relevant or material to the inquiry.
  - Reference: 7 U.S.C. § 9(5) (2017)
- The Commission may affirm, modify, set aside, or remand any exchange decision it reviews pursuant to subsection (b) of this section, after a determination on the record whether the action of the exchange was in accordance with the policies of this chapter.

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<sup>65</sup> Employs administrative law judges. Association of Administrative Law Judges. “Agencies Employing Administrative Law Judges,” <http://www.aalj.org/agencies-employing-administrative-law-judges> (accessed October 30, 2017).

- Reference: 7 U.S.C. § 12c(c) (2017)
- If any registered entity is not enforcing or has not enforced its rules of government made a condition of its designation or registration as set forth in section 7 through 7a-2 of this title, or if any registered entity, or any director, officer, agency, or employee of any registered entity otherwise is violating or has violated any of the provisions of this chapter or any of the rules, regulations, or orders of the Commission thereunder, the Commission may, upon notice and hearing on the record and subject to appeal as in other cases provided for in section 8(b) of this title, make and enter an order directing that such registered entity, director, officer, agency, or employee shall cease and desist from such violation, and assess a civil penalty.
  - Reference: 7 U.S.C. § 13a (2017)
- The Commission shall have the authority to employ such investigators, special experts, Administrative Law Judges, clerks, and other employees as it may from time to time find necessary for the proper performance of its duties and as may be from time to time appropriated for by Congress.
  - Reference: 7 U.S.C. § 16(b)(1) (2017)

### **CONSUMER PRODUCT SAFETY COMMISSION**

*Date of Creation:* October 27, 1972<sup>66</sup>

*Statute:* 15 U.S.C. §§ 2051-2089 (2017)

*Authorizing Language:* An independent regulatory commission is hereby established, to be known as the Consumer Product Safety Commission.

- Reference: 15 U.S.C. § 2053(a) (2017)

*Commissioners/Board Members:* [The Commission shall consist] of five Commissioners who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 15 U.S.C. § 2053(a) (2017)

*Quorum Rules:* No vacancy in the Commission shall impair the right of the remaining Commissioners to exercise all the powers of the Commission, but three members of the Commission shall constitute a quorum for the transaction of business, except that if there are only three members serving on the Commission because of vacancies in the Commission, two members shall constitute a quorum for the transaction of business, and if there are only two members serving on the Commission because of vacancies on the Commission, two members shall constitute a quorum for the six month period beginning on the date of the vacancy which caused the number of Commission members to decline to two.

- Reference: 15 U.S.C. § 2053(d) (2017)

*Agency Specific Personnel:* None

*Limitation on Appointment:* In making such appointments, the President shall consider individuals who, by reason of their background and expertise in areas related to consumer products and protection of the public from risks to safety, are qualified to serve as members of the Commission.

- Reference: 15 U.S.C. § 2053(a) (2017)

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<sup>66</sup> Consumer Product Safety Act, Pub. L. No. 92-573, 86. Stat. 1207 (1972).

- No individual in the employ of, or holding any official relation to, any person engaged in selling or manufacturing consumer products or owning stock or bonds of substantial value in a person so engaged, or who is in any other manner pecuniarily interested in such a person, or in a substantial supplier of such a person, shall hold the office of Commissioner. A Commissioner may not engage in any other business, vocation, or employment.
  - Reference: 15 U.S.C. § 2053(c) (2017)
- The Chairman may only appoint an attorney to the position of Associate Executive Director of Compliance and Administrative Litigation.
  - Reference: 15 U.S.C. § 2053(g)(1)(A)

*Party Balancing:* Not more than three of the Commissioners shall be affiliated with the same political party.

- Reference: 15 U.S.C. § 2053(c) (2017)

*Fixed Terms:* Each of [the Commissioners] shall be appointed for a term of seven years from the date of the expiration of the term for which his predecessor was appointed.

- Reference: 15 U.S.C. § 2053(b)(1)(B) (2017)

*Staggered Terms:* The Commissioners first appointed under this section shall be appointed for terms ending three, four, five, six, and seven years respectively, after October 27, 1972, the term of each to be designated by the President at the time of nomination.

- Reference: 15 U.S.C. § 2053(b)(1)(A) (2017)

*For Cause:* Any member of the Commission may be removed by the President for neglect of duty or malfeasance in office but for no other cause.

- Reference: 15 U.S.C. § 2053(a) (2017)

*Serve President:* None

*Continuation until Replacement:* A Commissioner may continue to serve after the expiration of this term until his successor has taken office, except that he may not so continue to serve more than one year after the date on which his term would otherwise expire.

- Reference: 15 U.S.C. § 2053(b)(2) (2017)

*Acting Service Rules:* The Commission shall annually elect a Vice Chairman to act in the absence or disability of the Chairman or in case of a vacancy in the office of Chairman.

- Reference: 15 U.S.C. § 2053(d) (2017)

*Who is Head of Agency:* The Chairman shall be appointed by the President, by and with the advice and consent of the Senate, from among the members of the Commission. An individual may be appointed as a member of the Commission and as Chairman at the same time.

- Reference: 15 U.S.C. § 2053(a) (2017)
- The Chairman of the Commission shall be the principal executive officer of the Commission.
  - Reference: 15 U.S.C. § 2053(f)(1)

*OMB Review:*<sup>67</sup> Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that estimate or request to the Congress.

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<sup>67</sup> The Consumer Product Safety Commission is identified as an “independent regulatory agency” and thus is exempt from OMB rule review. See Exec. Order No. 12866, 58 Fed. Reg. 51735 (1993); 44 U.S.C. § 3502(5) (2017). See also, Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and

- Reference: 15 U.S.C. § 2076(k)(1) (2017)
- Whenever the Commission submits any legislative recommendations, or testimony, or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, or testimony, or comments on legislation, to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony or comments to Congress.
  - Reference: 15 U.S.C. § 2076(k)(2) (2017)

*Independent Litigating:* Notwithstanding any other provision of law, in any action under this section, the Commission may direct attorneys employed by it to appear and represent it.

- Reference: 15 U.S.C. § 2061(e) (2017)
- Such actions [to restrain violation of §§ 2064(d) or 2068 any person from distributing in commerce a product which does not comply with a consumer product safety rule] may be brought by the Commission (without regard to section 2076(b)(7)(A) of this title) or by the Attorney General.
  - Reference: 15 U.S.C. § 2071(a) (2017)
- The Commission shall also have the power. . .to initiate, prosecute, defend, or appeal (other than to the Supreme Court of the United States) through its own legal representative and in the name of the Commission, any civil action if the Commission makes a written request to the Attorney General for representation in such civil action and the Attorney general does not within the 45-day period beginning on the date such request was made notify the Commission in writing that the Attorney General will represent the Commission in such civil action, and initiate, prosecute, or appeal, through its own legal representative, with the concurrence of the Attorney General or through the Attorney General, any criminal action, for the purpose of enforcing the laws subject to its jurisdiction.
  - Reference: 15 U.S.C. § 2076(b)(7) (2017)

*Independent Sources of Funding:* The Commission shall also have the power. . .to accept gifts and voluntary and uncompensated services, notwithstanding the provisions of section 1342 of Title 31.

- Reference: 15 U.S.C. § 2076(b)(6) (2017)

*Reporting Requirements:*<sup>68</sup> Upon written request of the Chairman or Ranking Minority Member of either of the appropriate Congressional committees or any subcommittee thereof, the Commission shall provide to the Chairman or Ranking Minority Member any information furnished to the Commission under section 2084 of this title for purposes that are related to the jurisdiction of such committee or subcommittee.

- Reference: 15 U.S.C. § 2055(e)(4) (2017)
- The Commission shall submit to the appropriate Congressional committees an annual report on the [publicly available consumer product information database].
  - Reference: 15 U.S.C. § 2055a(d) (2017)

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Budget, on Agencies with Legislative and Budget “Bypass” Authorities (Feb. 20, 2001), *available at* <http://www.citizen.org/documents/OMBDocument1.pdf>.

<sup>68</sup> All references to the appropriate congressional committees mean the House Committee on Energy and Commerce and the Senate Committee on Commerce, Science, and Transportation. 15 U.S.C. § 2052(a)(1) (2017).

- The Commission shall . . .not later than 3 years after August 14, 2008, and periodically thereafter as the Commission considers appropriate, transmit a report on such [technology] assessments to the appropriate Congressional committees.
  - Reference: 15 U.S.C. § 2056a(e)(1)(B) (2017)
- If, based on the [regular review] assessment required by paragraph (1), the Commission determines by rule that a recall notification technology is likely to be as effective or more effective in facilitating recalls of durable infant or toddler products as the registration forms required by subsection (d), the Commission shall submit to the appropriate Congressional committees a report on such determination.
  - Reference: 15 U.S.C. § 2056a(e)(2)(B) (2017)
- A proceeding for the development of a consumer product safety rule may be commenced by the publication in the Federal Register of an advance notice of proposed rulemaking. . .The Commission shall transmit such notice within 10 calendar days to the appropriate Congressional committees.
  - Reference: 15 U.S.C. § 2058(a) (2017)
- No consumer product safety rule may be proposed by the Commission unless the Commission publishes in the Federal Register the text of the proposed rule, including any alternatives, which the Commission proposed to promulgate. . .The Commission shall transmit such notice within 10 calendar days to the appropriate Congressional committees.
  - Reference: 15 U.S.C. § 2058(c) (2017)
- Any proposed consumer product safety rule shall be issued within twelve months after the date of publication of the notice [of proposed rulemaking], unless the Commission determines that such proposed rule is not reasonably necessary to eliminate or reduce the risk of injury associate with the product or is not in the public interest. The Commission may extend the twelve-month period for good cause. If the Commission extends such period, it shall immediately transmit notice of such extension, together with an estimate of the date by which the Commission anticipates such rulemaking will be completed.
  - Reference: 15 U.S.C. § 2058(c) (2017)
- The Commission shall periodically report to the appropriate Congressional committees the results of the surveillance program under paragraph (1) [for the purpose of preventing entry of unsafe consumer products into the United States].
  - Reference: 15 U.S.C. § 2066(h)(3) (2017)
- Notwithstanding section 3003 of the Federal Reports Elimination and Sunset Act of 1995, the Commission shall prepare and submit to the President and the Congress at the beginning of each regular session of Congress a comprehensive report on the administration of this chapter for the preceding fiscal year.
  - Reference: 15 U.S.C. § 2076(j) (2017)
- Beginning 1 year after November 16, 1990, and every year thereafter, the Consumer Product Safety Commission shall submit to the Committees on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives the information specified in paragraph (2). Such information may be included in the annual report to the Congress submitted by the Commission.
  - Reference: 15 U.S.C. § 2076a (2017)

- The Commission shall transmit to the Secretary of the Senate and the Clerk of the House of Representatives a copy of any consumer product safety rule promulgated by the Commission under section 2058 of this title [relating to the promulgation of consumer product safety rules].

- Reference: 15 U.S.C. § 2083 (2017)(a)

*Review Commissions:* None

*Advisory Commissions:* Not earlier than 180 days after August 14, 2008, the Commission shall begin the process of appointing a Chronic Hazard Advisory Panel. . .to study the effects on children’s health of all phthalates and phthalate alternatives as used in children’s toys and child care articles.

- Reference: 15 U.S.C. § 2057c(b)(2) (2017)

- The Commission shall appoint Chronic Hazard Advisory Panels. . .to advise the Commission in accordance with the provisions of section 2080(b) of this title respecting the chronic hazards of cancer, birth defects, and gene mutations associated with consumer products.

- Reference: 15 U.S.C. § 2077 (2017)

*Action Require Outside Approval:* If it appears to the Commission that any consumer product which may be refused admission pursuant to subsection (a) of this section can be so modified that it need not (under the terms of paragraphs (1) through (4) of subsection (a)) be refused admission, the Commission may defer final determination as to the admission of such product and, in accordance with such regulations as the Commission and the Secretary of the Treasury shall jointly agree to, permit such product to be delivered from customs custody under bond for the purpose of permitting the owner or consignee an opportunity to so modify such product.

- Reference: 15 U.S.C. § 2066(c) (2017)

- The Commission shall also have the power. . .to initiate, prosecute, defend, or appeal (other than to the Supreme Court of the United States) through its own legal representative and in the name of the Commission, any civil action if the Commission makes a written request to the Attorney General for representation in such civil action and the Attorney general does not within the 45-day period beginning on the date such request was made notify the Commission in writing that the Attorney General will represent the Commission in such civil action, and initiate, prosecute, or appeal, through its own legal representative, with the concurrence of the Attorney General or through the Attorney General, any criminal action, for the purpose of enforcing the laws subject to its jurisdiction.

- Reference: 15 U.S.C. § 2076(b)(7) (2017)

*Legislative Veto:* Any rule specified in subsection (a) [consumer product safety rule] shall not take effect if within 90 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, both Houses of the Congress adopt a concurrent resolution [disapproving of the rule] or within the 60 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, one House of Congress adopts such concurrent resolution and transmits such resolution to the other House and such resolution is not disapproved by such other House within 30 calendar days of continuous session of the Congress which occur after the date of such transmittal.

- Reference: 15 U.S.C. § 2083(b) (2017)

*Adjudication:* Except as provided in paragraph (2), an order under subsection (c) or (d) [relating to substantial product hazards] may be issued only after an opportunity for a hearing in accordance with section 554 of Title 5.

- Reference: 15 U.S.C. § 2064(f) (2017)
- Except for those owners or consignees who are or have been afforded an opportunity for a hearing in a proceeding under section 2061 of this title with respect to an imminently hazardous product, the owner or consignee of the product shall be afforded an opportunity by the Commission for a hearing in accordance with section 554 of Title 5 with respect to importation of such products into the customs territory of the United States.
  - Reference: 15 U.S.C. § 2066(b) (2017)

### **CORPORATION FOR NATIONAL AND COMMUNITY SERVICE**

*Date of Creation:* November 16, 1990<sup>69</sup>

*Statute:* 42 U.S.C. §§ 12501-12682 (2017)

*Authorizing Language:* There is established a Corporation for National and Community Service that shall administer the programs established under the national service laws. The Corporation shall be a Government corporation, as defined in section 103 of Title 5.

- Reference: 42 U.S.C. 12651 (2017)

*Commissioners/Board Members:* There shall be in the Corporation a Board of Directors. . . shall be composed of 15 members. . . to be appointed by the President, by and with the advice and consent of the Senate, and the ex officio nonvoting members described in paragraph (3).<sup>70</sup>

- Reference: 42 U.S.C. 12651a(1) (2017)

*Quorum Rules:* A majority of the appointed members of the Board shall constitute a quorum.<sup>71</sup>

- Reference: 42 U.S.C. 12651b(b) (2017)

*Agency Specific Personnel:* The Director, and other members of the permanent cadre, and other staff personnel [of the National Civilian Community Corps] shall be appointed without regard to the provisions of Title 5 governing appointments in the competitive service. The rates of pay of such persons may be established without regard to the provisions of chapter 51 and subchapter III of chapter 53 of Title 5.

- Reference: 42 U.S.C. § 12619(c)(3) (2017)
- Except as otherwise provided in this section [relating to work injuries and tort claims], members of the National Civilian Community Corps shall not, by reasons of their status as such members, be considered Federal employees or be subject to the provisions of law relating to Federal employment.
  - Reference: 42 U.S.C. § 12620(a) (2017)

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<sup>69</sup> National and Community Service Act of 1990, Pub. L. No. 101-610, 104 Stat. 3127 (1990). CNCA began operation in 1993.

<sup>70</sup> Ex officio members are the Administrator of the Environmental Protection Agency; the Attorney General; the Chief Executive Officer of the Corporation; the Director of the Peace Corps; and the Secretaries of Agriculture, Defense, Education, Health and Human Services, Housing and Urban Development, Labor, and the Interior. 42 U.S.C. § 12651a(a)(3) (2017).

<sup>71</sup> Vacancies shall not affect the power of remaining members to execute the duties of the Board. 42 U.S.C. 12651a(d) (2017).

- The Chief Executive Officer may designate positions in the Corporation as positions to which the Chief Executive Officer may make appointments, and for which the Chief Executive Officer may determine compensation, without regard to the provisions of Title 5 governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, to the extent the Chief Executive Officer determines that such designation is appropriate and desirable to further the effective operation of the Corporation.
  - Reference: 42 U.S.C. § 12651f(b)(1) (2017)
- Chief Executive Officer, after obtaining the approval of the Director of the Office of Personnel Management, shall issue regulations establishing a selection and compensation system for employees of the Corporation. In issuing such regulations, the Chief Executive Officer shall take into consideration the need or flexibility in such a system.
  - Reference: 42 U.S.C. § 12651f(b)(3)(A) (2017)

*Limitation on Appointment:* [One board member shall be] an individual between the agencies of 16 and 25 who has served in a school-based or community-based service-learning program, or is or was a participant or a supervisor in a program.

- Reference: 42 U.S.C. § 12651a(a)(1)(A) (2017)
- To the maximum extent practicable, the President shall appoint members who have extensive experience in volunteer or service activities, which may include programs funded under one of the national service laws, and in State government; who represent a broad range of viewpoints; who are experts in the delivery of human, educational, environmental, or public safety services; so that the Board shall be diverse according to race, ethnicity, age, gender, and disability characteristics.
  - Reference: 42 U.S.C. § 12651a(a)(2) (2017)

*Party Balancing:* To the maximum extent practicable, the President shall appoint members. . .so that no more than 50 percent of the appointed members of the Board, plus 1 additional appointed member, are from a single party.

- Reference: 42 U.S.C. § 12651a(a)(2)(E) (2017)

*Fixed Terms:* Each appointed member shall serve for a term of 5 years.

- Reference: 42 U.S.C. 12651a(c) (2017)

*Staggered Terms:* None

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* A voting member of the Board whose term has expired may continue to serve on the Board until the date on which the member's successor takes office, which period shall not exceed 1 year.

- Reference: 42 U.S.C. 12651a(e) (2017)

*Acting Service Rules:* The Board shall elect a Vice Chairperson from among its membership

- Reference: 42 U.S.C. 12651a(b)(2) (2017)
- The Vice Chairperson of the Board may conduct meetings of the Board in absence of the Chairperson.
  - Reference: 42 U.S.C. 12651b(c)(2) (2017)

*Who is Head of Agency:* The President shall appoint a member of the Board to serve as the initial Chairperson of the Board. Each subsequent Chairperson shall be elected by the Board from among its members.

- Reference: 42 U.S.C. 12651a(b)(1) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* There is established in the Treasury of the United States an account to be known as the National Service Trust. The Trust shall consist of from the amounts appropriated to the Corporation and made available to carry out this division, such amounts as the Corporation may designate to be available for the payment of national service educational awards, summer of service educational awards, and silver scholar educational awards and interest expenses pursuant to section 12604(e) of this title [relating to qualified student loans]; any amounts received by the Corporations as gifts, bequests, devises, or otherwise. . .if the terms of such donations direct that the donated amounts be deposited in the National Service Trust; any amounts recovered by the Corporation pursuant to 12602a of this title [charges assessed for erroneous or incorrect certification]; and the interest on, and proceeds from the sale or redemption of, any obligations held by the Trust. . .Amounts in the trust shall be available, to the extent provided in advance by appropriation<sup>72</sup> for payments of national service educational awards, summer of service educational awards, and silver scholar educational awards. . .and payments of interest

- Reference: 42 U.S.C. § 12601(a), (c) (2017)
- If the Corporation determines that the certification under subsection (a) [that individual successfully completed a required term of service in a national service program] is erroneous or incorrect, the Corporation shall assess against the national service program a charge for the amount of any associated payment or potential payment from the National Service Trust. IN assessing the amount of the charge, the Corporation shall consider the full facts and circumstances surrounding the erroneous or incorrect certification.
  - Reference: 42 U.S.C. § 12602a(b) (2017)
- The Corporation shall establish a reserve account [in the National Service Trust]. To ensure the availability of adequate funds to support the awards of approved national service positions, approved summer service positions, and approved silver scholar positions, for each fiscal year, the Corporation shall place in the account. . .during fiscal year 2011 or a subsequent fiscal year, a portion of the funds that were appropriated for that fiscal year under section 12681 of this title or section 501 of the Domestic Volunteer Service Act of 1973, were made available to carry out division C, D, or E of this subchapter, section 12653b or 12653c(a) of this title, subtitle A of title I of the Domestic Volunteer Service Act of 1973, or summer of service programs described in section 12563(c)(8) of this title, and remain available.
  - Reference: 42 U.S.C. § 12606(b) (2017)
- The Corporation may solicit, accept, hold, administer, use, and dispose of, in furtherance of the purposes of the national service laws, donations of any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest or otherwise. Donations accepted under this subparagraph shall be used as nearly as possible in accordance with the terms, if any, of such donation.

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<sup>72</sup> Unobligated balances of appropriations available for grants under the National Service Trust Progra, may be transferred to the National Service Trust (after notice to Congress) if such funds are initially obligated before the expiration of their period of availability. 42 U.S.C. § 12601a (2017).

- Reference: 42 U.S.C. § 12651g(a)(2)(A)
- [There is] in the Treasury. . . a VISTA Advance Payments Revolving Fund. . . for the Corporation for National and Community Service which, in addition to reimbursements collected from eligible public agencies and private nonprofit organizations pursuant to cost-share agreements, shall be available until expended to make advance payments in furtherance of title 1 of the Domestic Volunteer Service Act of 1973: Provided, That up to 10 percent of the funds appropriated to carry out title I of such Act may be transferred to the Fund if the Chief Executive Officer of the Corporation for National and Community Service determines that the amounts in the Fund are not sufficient to cover expenses of the Fund.
  - Reference: 42 U.S.C. § 12651i (2017)
- Any amounts that are utilized by the Corporation from the funds appropriated under section 12681(a)(4)(D) of this title to carry out paragraph (1) [relating to major disasters or emergencies] for a fiscal year shall be kept in a separate fund. Any amounts in such fund that are not used during a fiscal year shall remain available to use to pay National Service Reserve Corps members an allowance, determined by the Corporation, for out of pocket expenses.
  - Reference: 42 U.S.C. § 12653h(f)(4) (2017)

*Reporting Requirements:*<sup>73</sup> Not later than 60 days after the end of each fiscal year for which the Corporation makes grants under section 12571(a) of this title [relating to support of national service programs], the Corporation shall prepare and submit to the authorizing committees a report [on how the Corporation administered the grants and the extent to which the programs improved performance].

- Reference: 42 U.S.C. § 12572(k) (2017)
- Not later than March 1 of each year, the Corporation shall submit a report to the authorizing committees on the financial status of the [National Service] Trust during the preceding fiscal year.
  - Reference: 42 U.S.C. § 12601(d) (2017)
- For fiscal year 2009 and thereafter. . . unobligated balances of appropriations available for grants under the National Service Trust Program during such fiscal year may be transferred to the National Service Trust after notice is transmitted to the Committees on Appropriations of the House of Representatives and the Senate.
  - Reference: 42 U.S.C. § 12601a (2017)
- The Chief Executive Officer of the Corporation shall annually prepare and submit to the authorizing committees a report that contains a certification that the Corporation is in compliance with the requirements of paragraph (1) [relating to the approval of national service positions].
  - Reference: 42 U.S.C. § 12606(a)(3) (2017)
- Pursuant to the provisions for evaluations conducted under section 12639 of this title and in particular subsection (g) of such section [relating to program objectives], the Corporation shall conduct periodic evaluations of the National Civilian Community Corps Program authorized under this division. Upon completing each such evaluation, the Corporation shall transmit to the authorizing committees a report on the evaluation.

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<sup>73</sup> All references to authorizing committees mean the House Committee on Education and Labor and the Senate Committee on Health, Education, Labor, and Pensions. 42 U.S.C. § 12511(7) (2017).

- Reference: 42 U.S.C. § 12624 (2017)
- Not later than 120 days after the end of each fiscal year, the Corporation shall prepare and submit, to the authorizing committees, the Committee on Appropriations of the House of Representatives, and the Committee on Appropriations of the Senate, a report concerning the programs that receive assistance under the national service laws.
  - Reference: 42 U.S.C. § 12632(b)(1) (2017)
- The Corporation shall, on an annual basis, arrange for an independent evaluation of the programs assisted under division C of this subchapter. . . The entity conducting the evaluation shall submit a report to the President, authorizing committees, the Corporation, and each State Commission containing the results of the evaluation.
  - Reference: 42 U.S.C. § 12639(i)(2) (2017)
- The Corporation shall submit to the authorizing committees not later than 2 years after April 21, 2009, and annually thereafter, a report containing information on the number of recipients of assistance under the national service laws implementing corrective action plans under subsection (l)(1); recipients for which the Corporation provides technical assistances for a program under subsection (l)(2)(A)(i); recipients for which the Corporation terminates assistance for a program under subsection (m); entities whose application for assistance under a national service law was rejected; and recipients meeting or exceeding their performance levels under subsection (k).
  - Reference: 42 U.S.C. § 12639(n) (2017)
- The partnership [the Corporation in conjunction with the National Conference on Citizenship] shall submit the report [annual report on the Civic Health Assessment] to the authorizing committees.
  - Reference: 42 U.S.C. § 12639a(e)(3) (2017)
- The Chief Executive Officer shall report to the authorizing committees annually on all limitations increased under this subsection [regarding limitations on program grant costs], with an explanation of the compelling needs justifying such increases.
  - Reference: 42 U.S.C. § 12645c(e)(2) (2017)
- The Corporation shall comply with applicable auditing and reporting requirements as provided in the Chief Financial Officers Act of 1990 and chapter 91 of Title 31 (commonly known as the “Government Corporation Control Act”). The Corporation shall report to the authorizing committees any failure to comply with such requirements.
  - Reference: 42 U.S.C. § 12645e (2017)
- The Chief Executive Officer. . . shall. . . prepare and submit to the authorizing committees and the Board an annual report on actions taken to achieve the goal of having 50 percent of all approved national service positions be full-time positions by 2012 as described in paragraph (1), including an assessment of the progress made toward achieving that goal and the actions to be taken in the coming year toward achieving that goal.
  - Reference: 42 U.S.C. § 12651d(b)(7) (2017)
- The Chief Executive Officer. . . shall. . . prepare and submit to the authorizing committees an annual report [on national services].
  - Reference: 42 U.S.C. § 12651d(b)(10) (2017)
- The Corporation for National and Community Service shall provide detailed information on the activities and financial status of the [VISTA Advance Payments Revolving] Fund

during the preceding fiscal year in the annual congressional budget justifications to the Committees on Appropriations of the House of Representatives and the Senate.

- Reference: 42 U.S.C. § 12651i (2017)
- The Corporation shall submit periodic reports to the authorizing committees including the data collected and the results of the research under this subsection [regarding the success of Social Innovations Funds grant program]; information on lessons learned about best practices from the activities carried out under this section, to improve those activities; and a list of all eligible entities and community organizations receiving funds under this section.
  - Reference: 42 U.S.C. § 12543k(m)(A)(ii) (2017)

*Review Commissions:* None

*Advisory Commissions:* There shall be established a National Civilian Community Corps Advisory Board to advise the Director concerning the administration of this division and to assist the Corps in responding rapidly and efficiency in times of natural and other disasters.

- Reference: 42 U.S.C. § 12623 (2017)
- The Chief Executive Officer, acting upon the recommendation of the Board, may establish advisory committees in the Corporation to advise the Board with respect to national service issues, such as the type of programs to be established or assisted under the national service laws, priorities and criteria for such programs, and methods of conducting outreach for, and evaluation of, such programs.
  - Reference: 42 U.S.C. § 12651f(f) (2017)

*Action Require Outside Approval:* The Chief Executive Officer may. . .with the approval of the President, arrange and reimburse the heads of other Federal agencies for the performance of any of the provisions of the national service laws.

- Reference: 42 U.S.C. § 12651d(c)(2)
- The Chief Executive Officer, after obtaining the approval of the Director of the Office of Personnel Management, shall issue regulations establishing a selection and compensation system for employees of the Corporation.
  - Reference: 42 U.S.C. § 12651f(b)(3)(A) (2017)

*Legislative Veto:* None

*Adjudication:* None

## **CORPORATION FOR PUBLIC BROADCASTING**

*Date of Creation:* November 7, 1967<sup>74</sup>

*Statute:* 47 U.S.C. § 396 (2017)

*Authorizing Language:* There is authorized to be established a nonprofit corporation, to be known as the “Corporation for Public Broadcasting,” which will not be an agency or establishment of the United States Government.

- Reference: 47 U.S.C. § 396(b) (2017)

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<sup>74</sup> Public Broadcasting Act of 1967, Pub. L. No. 90-129, 81 Stat. 365 (1967). The CPB registered as a nonprofit corporation on March 27, 1968.

*Commissioners/Board Members:* The Corporation for Public Broadcasting shall have a Board of Directors. . .consisting of 9 members appointed by the President, by and with the advice and consent of the Senate.

- Reference: 47 U.S.C. § 396(c)(1) (2017)

*Quorum Rules:* None

*Agency Specific Personnel:* None<sup>75</sup>

*Limitation on Appointment:* The 9 members of the Board appointed by the President shall be selected from among citizens of the United States (not regular full-time employees of the United States) who are eminent in such fields as education, cultural and civic affairs, or the arts, including radio and television; and shall be selected so as to provide as nearly as practicable a broad representation of various regions of the Nation, various professions and occupations, and various kinds of talent and experience appropriate to the functions and responsibilities of the Corporation.

- Reference: 47 U.S.C. § 396(c)(2) (2017)
- Of the members of the Board appointed by the President under paragraph (1), one member shall be selected from among individuals who represent the licensees and permittees of public television stations, and one member shall be selected from among individuals who represent the licensees and permittees of public radio stations.

- Reference: 47 U.S.C. § 396(c)(3) (2017)

*Party Balancing:* No more than 5 members of the Board appointed by the President may be members of the same political party.

- Reference: 47 U.S.C. § 396(c)(1) (2017)

*Fixed Terms:* The term of office of each member of the Board appointed by the President shall be 6 years.

- Reference: 47 U.S.C. § 396(c)(5) (2017)
- No member of the Board shall be eligible to serve in excess of 2 consecutive full terms.
  - Reference: 47 U.S.C. § 396(c)(5) (2017)

*Staggered Terms:* None

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* Any member whose term has expired may serve until such member's successor has taken office, or until the end of the calendar year in which such member's term has expired, whichever is earlier.

- Reference: 47 U.S.C. § 396(c)(5) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* Members of the Board shall annually elect one of their members to be Chairman.

- Reference: 47 U.S.C. § 396(d)(1) (2017)

*OMB Review:* None<sup>76</sup>

*Independent Litigating:* None

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<sup>75</sup> CPB is not an agency or establishment of the United States Government.

<sup>76</sup> But see, Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget "Bypass" Authorities (Feb. 20, 2001), *available at* <http://www.citizen.org/documents/OMBDocument1.pdf> (suggesting the CPB has informal legislative bypass authority).

*Independent Sources of Funding:* There is hereby established in the Treasury a fund which shall be known as the Public Broadcasting Fund. . .The funds authorized to be appropriated by this subsection shall be available until expended and shall be used by the Corporation, in a prudent and financially responsible manner, solely for its grants, contracts, and administrative costs. . .The Corporation shall establish an annual budget for use in allocating amounts from the Fund.

- Reference: 47 U.S.C. § 396(k) (2017)

*Reporting Requirements:* The Corporation shall submit an annual report for the preceding fiscal year ending September 30 to the President for transmittal to the Congress on or before the 15<sup>th</sup> of May of each year.

- Reference: 47 U.S.C. § 396(i)(1) (2017)
- The Corporation shall report annually to Congress regarding the activities and expenditures of the independent production service, including carriage and viewing information for programs produced or acquired with the funds provided pursuant to subclause (I).
  - Reference: 47 U.S.C. § 396 (k)(3)(B)(iii)(V) (2017)
- Prior to July 1, 1989 and every three years thereafter, the Corporation shall compile an assessment of the needs of minority and diverse audiences, the plans of public broadcasting entities and public telecommunications entities to address such needs, the ways radio and television can be used to help these underrepresented groups, and the projections concerning minority employment by public broadcasting entities and public telecommunications entities. . .Commencing July 1, 1989, the Corporation shall prepare an annual report on the provision by public broadcasting entities and public telecommunications entities of service to the audiences described in paragraph (1) [minority and diverse audiences]. . .As soon as they have been prepared, each assessment and annual report required under paragraphs (1) and (2) shall be submitted to Congress.
  - Reference: 47 U.S.C. § 396(b) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **DEFENSE NUCLEAR FACILITIES SAFETY BOARD**

*Date of Creation:* September 29, 1988<sup>77</sup>

*Statute:* 42 U.S.C. §§ 2286-2286l (2017)

*Authorizing Language:* There is hereby established an independent establishment in the executive branch, to be known as the Defense Nuclear Facilities Safety Board.

- Reference: 42 U.S.C. § 2286(a) (2017)

*Commissioners/Board Members:* The Board shall be composed of five members appointed. . .by the President, by and with the advice and consent of the Senate.

- Reference: 42 U.S.C. § 2286(b)(1) (2017)

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<sup>77</sup> Pub. L. No. 100-456, 102 Stat. 2076 (1988).

*Quorum Rules:* Three members of the Board shall constitute a quorum, but a lesser number may hold hearings.

- Reference: 42 U.S.C. § 2286(e) (2017)

*Agency Specific Personnel:* None

*Limitation on Appointment:* The . . . members [shall be] appointed from civilian life. . . from among United States citizens who are respected experts in the field of nuclear safety with a demonstrated competence and knowledge relevant to the independent investigative and oversight functions of the Board.

- Reference: 42 U.S.C. § 2286(b)(1) (2017)
- No member of the Board may be an employee of, or have any significant financial relationship with, the Department of Energy or any contractor of the Department of Energy.
- Reference: 42 U.S.C. § 2286(b)(3) (2017)

*Party Balancing:* Not more than three members of the Board shall be of the same political party.

- Reference: 42 U.S.C. § 2286(b)(1) (2017)

*Fixed Terms:* The members of the Board shall serve for terms of five years. Members of the Board may be reappointed.

- Reference: 42 U.S.C. § 2286(d)(1) (2017)

*Staggered Terms:* Of the members first appointed, one shall be appointed for a term of one year, one shall be appointed for a term of two years, one shall be appointed for a term of three years, one shall be appointed for a term of four years, and one shall be appointed for a term of five years.

- Reference: 42 U.S.C. § 2286(d)(2) (2017)

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* A member may serve after the expiration of that member's term until a successor has taken office.

- Reference: 42 U.S.C. § 2286(d)(3) (2017)

*Acting Service Rules:* The Vice Chairman shall act as Chairman in the event of the absence or incapacity of the Chairman or in case of a vacancy in the office of Chairman.

- Reference: 42 U.S.C. § 2286(c)(4) (2017)

*Who is Head of Agency:* The President shall designate a Chairman and a Vice Chairman from among members of the Board. . . The Chairman shall be the chief executive officer of the Board.

- Reference: 42 U.S.C. § 2286(c) (2017)

*OMB Review:* Whenever the Board submits or transmits to the President or the Director of the Office of Management and Budget any legislative recommendation, or any statement or information in preparation of a report to be submitted to the Committees on Armed Services, Appropriations, and Energy and Commerce of the House of Representatives and the Committees on Armed Services, Appropriations, and Energy and Natural Resources of the Senate pursuant to section 2286e(a) of this title [annual report], the Board shall submit at the same time a copy thereof to such committees.

- Reference: 42 U.S.C. § 2286h-1 (2017)

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* At the same time that the Board transmits a recommendation relating to an imminent or severe threat to the Secretary of Energy, the Board shall also transmit the recommendation to the President. . .After receipt by the President of the recommendation from the Board. . ., the Board promptly shall make such recommendation available to the public and shall transmit such recommendation to the Committees on Armed Services, Appropriations, and Energy and Commerce of the House of Representatives and the Committees on Armed Services, Appropriations, and Energy and Natural Resources of the Senate.

- Reference: 42 U.S.C. § 2286d(h) (2017)
- The Board shall submit to the Committees on Armed Services, Appropriations, and Energy and Commerce of the House of Representatives and the Committees on Armed Services, Appropriations and Energy and Natural Resources of the Senate each year, at the same time that the President submits the budget to Congress. . .a written report concerning its activities under this subchapter, including all recommendations made by the Board, during the year preceding the year in which the report is submitted.
  - Reference: 42 U.S.C. § 2286e(a) (2017)

*Review Commissions:* None

*Advisory Commissions:* The Board. . .may obtain the advice and recommendations of the Advisory Committee on Reactor Safeguards.

- Reference: 42 U.S.C. § 2286b(f) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **DELTA REGIONAL AUTHORITY**

*Date of Creation:* December 21, 2000<sup>78</sup>

*Statute:* 7 U.S.C. §§ 2009aa-aa-13 (2017)

*Authorizing Language:* There is established the Delta Regional Authority

- Reference: 7 U.S.C. § 2009aa-1(a)(1) (2017)

*Commissioners/Board Members:* The Authority shall be composed of a Federal member, to be appointed by the President, with the advice and consent of the Senate, and the Governor (or a designee of the Governor) of each State in the region that elects to participate in the Authority.

- Reference: 7 U.S.C. § 2009aa-1(a)(2) (2017)

*Quorum Rules:* A quorum of State members shall be required to be present for the Authority to make any policy decision, including a modification or revision of an Authority policy decision, approval of a State or regional development plan, and any allocation of funds among the States.

- Reference: 7 U.S.C. § 2009aa-1(c)(2) (2017)
- A State alternate shall not be counted toward the establishment of a quorum of the Authority in any instance in which a quorum of the State members is required to be present.
  - Reference: 7 U.S.C. § 2009aa-1(b)(3) (2017)

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<sup>78</sup> Pub. L. No. 106-554, 114 Stat. 2763 (2000).

*Agency Specific Personnel:* No member, alternate, officer, or employee of the Authority (except the Federal cochairperson of the Authority, the alternate and staff for the Federal cochairperson, and any Federal employee detailed to the Authority. . .) shall be considered to be a Federal employee for any purpose.

- Reference: 7 U.S.C. § 2009aa-1(h)(5)(C) (2017)

*Limitation on Appointment:* None

*Party Balancing:* None

*Fixed Terms:* None

*Staggered Terms:* None

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* The State member of a participating State may have a single alternate, who shall be a resident of that State and appointed by the Governor of that State. The President shall appoint an alternate Federal cochairperson.

- Reference: 7 U.S.C. § 2009aa-1(b) (1)-(2) (2017)
- An alternate member shall vote in the case of the absence, death, disability, removal, or resignation of the Federal or State representative for which the alternate member is an alternate.
  - Reference: 7 U.S.C. § 2009aa-1(c)(4) (2017)

*Who is Head of Agency:* The Authority shall be headed by the Federal member, who shall serve as the Federal cochairperson and as a liaison between the Federal Government and the Authority and a State cochairperson, who shall be a Governor of a participating State in the region, and shall be elected by the State members for a term of not less than 1 year.

- Reference: 7 U.S.C. § 2009aa-1(a)(3) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The Authority may. . .accept, use, and dispose of gifts or donations of services or real, personal, tangible, or intangible property.

- Reference: 7 U.S.C. § 2009aa-1(e)(8) (2017)
- Administrative expenses of the Authority (except for the expenses of the Federal cochairperson, including expenses of the alternate and staff of the Federal cochairperson, which shall be paid solely by the Federal Government) shall be paid by the Federal Government, in an amount equal to 50 percent of the administrative expenses and by the States in the region participating in the Authority, in an amount equal to 50 percent of the administrative expenses.
  - Reference: 7 U.S.C. § 2009aa-1(g)(1) (2017)

*Reporting Requirements:* Not later than 180 days after the end of each fiscal year, the Authority shall submit to the President and to Congress a report describing the activities carried out under this subchapter.

- Reference: 7 U.S.C. § 2009aa-11 (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## DEPARTMENT OF AGRICULTURE

*Date of Creation:* May 15, 1862<sup>79</sup>

*Statute:* 7 U.S.C. §§ 2201-2279i (2017)

*Authorizing Language:* There shall be at the seat of government a Department of Agriculture.

- Reference: 7 U.S.C. § 2201 (2017)
- The Department of Agriculture shall be an executive department.
  - Reference: 7 U.S.C. § 2202 (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* The Deputy Secretary of Agriculture is authorized to exercise the functions and perform the duties of the first assistant of the Secretary of Agriculture within the meaning of section 3345 of Title 6 [acting officers].

- Reference: 7 U.S.C. § 2211 (2017)

*Who is Head of Agency:* The Department of Agriculture shall be . . . under the supervision and control of a Secretary of Agriculture, who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 7 U.S.C. § 2202 (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The Secretary is authorized to accept funds from non-Federal sources to carry out the activities authorized by this section [water management for rural areas].

- Reference: 7 U.S.C. § 2204c(f)(2) (2017)
- A working capital fund of \$400,000 is established without fiscal year limitation, for the payment of salaries and other expenses necessary to the maintenance and operation of central duplicating, photogenic, and tabulating services; a central motor-transport service for the maintenance, repair, and operation of motor-transport vehicles and other equipment; a central supply service for the purchase, storage, handling, issuance, packing, or shipping of stationery, supplies, equipment, blank forms, and miscellaneous materials, for which stocks thereof, not to exceed \$200,000 in value (except for the value of blank forms) at the close of any fiscal year, may be maintained sufficient to meet, in whole or in part, requirements of the bureaus and offices of the Department in the city of Washington and elsewhere; and such other services as the Secretary, with the approval of the Director of the Office of Management and Budget, determines may be performed

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<sup>79</sup> An Act to Establish a Department of Agriculture, 12 Stat. 387 (1862).

more advantageously as central services; said fund to be credited with advances or reimbursements from applicable funds of bureaus, offices, and agencies for which services are performed on the basis of rates which shall include estimated or actual charges for personal services, materials, equipment (including maintenance, repairs, and depreciation) and other expenses: Provided that such advances shall not be available for any period beyond that provided by the Act appropriating the funds: Provided further, That such central services shall, to the fullest extent practicable, be used to make unnecessary the maintenance of separate like services in the bureaus, offices, and agencies of the department.

- Reference: 7 U.S.C. § 2235 (2017)
- There is established a working capital fund of \$300,000, to be available without fiscal year limitation, for expenses necessary for furnishing facilities and services by the Agricultural Research Center to Government agencies.
  - Reference: 7 U.S.C. § 2236 (2017)
- The Secretary of Agriculture is authorized to sell in the open market or to exchange for other livestock such animals or animal products as cease to be needed in the work of the department, and all moneys received from the sale of such animals or animal products or as a bonus in the exchange of the same shall be deposited in the Treasury of the United States as miscellaneous receipts.
  - Reference: 7 U.S.C. § 2241 (2017)
- The Secretary of Agriculture may furnish, on request, copies of software programs, pamphlets, reports, or other publications, regardless of their form, including electronic publications, prepared in the Department of Agriculture in carrying out any of its missions or programs and charge such fees therefore as the Secretary determines are reasonable. . .Any fees collected, late payment penalties, and interest earned shall be credited to the account referred to in this section and may be invested by the Secretary of Agriculture in insured or fully-collateralized interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments.. Fees and charges, including late payment penalties and interest earned from the investment of such funds shall be credited to such account.
  - Reference: 7 U.S.C. § 2242a (2017)
- The Secretary of Agriculture is authorized to furnish, upon application, prints and lantern slides from negatives in the possession of the department and to charge for the same a price to cover the cost of preparation, such price to be determined and established by the Secretary of Agriculture, and the money received from such sales to be deposited in the Treasury of the United States.
  - Reference: 7 U.S.C. § 2245 (2017)
- The Secretary of Agriculture is authorized, under such rules and regulations and subject to such conditions as he may prescribe, to loan, rent, or sell copies of films. . .all moneys received from such rentals or sales to be covered into the Treasury of the United States as miscellaneous receipts.
  - Reference: 7 U.S.C. § 2246 (2017)
- The Secretary of Agriculture may furnish, upon application, samples of pure sugars, naval stores, microscopical specimens, and other products to State and municipal officers, educational institutions, and other parties and charge for the same a price to cover the cost thereof, such price to be determined and established by the Secretary, and the money

received from sales to be deposited in the Treasury of the United States as miscellaneous receipts.

- Reference: 7 U.S.C. § 2247 (2017)
- The Secretary of Agriculture is authorized to sell samples, illustrations, practical forms, or sets of the grades recommended or promulgated by him for farm or food products, under such rules and regulations as he may prescribe, and the receipts therefrom shall be deposited in the Treasury to the credit of miscellaneous receipts.
  - Reference: 7 U.S.C. § 2247a (2017)
- There is hereby established in the Treasury of the United States a fund to be known as the “Nonrecurring Expenses fund”: Provided, That unobligated balances of expired discretionary funds appropriated in this or any succeeding fiscal year from the General Fund of the Treasury to the Department of Agriculture (except the Forest Service) by this or any other Act may be transferred (not later than the end of the fifth fiscal year after the last fiscal year for which such funds are available for the purposes for which appropriated) into the Fund: Provided further, That amounts deposited in the Fund shall be available until expended, and in addition to such other funds as may be available for such purposes, for facilities infrastructure capital acquisition necessary for the operation of the Department of Agriculture, subject to approval by the Office of Management and Budget: Provided further, That amounts in the Fund may be obligated only after the Committees on Appropriations of the House of Representatives and the Senate are notified at least 15 days in advance of the planned use of funds.
  - Reference: 7 U.S.C. § 2250b (2017)
- The Secretary of Agriculture is hereby authorized to accept, receive, hold, and administer on behalf of the United States gifts, bequests, or devises of real and personal property made unconditionally for the benefit of the National Agricultural Library or for the carrying out of any of its functions.
  - Reference: 7 U.S.C. § 2264 (2017)
- Gift of any money accepted pursuant to the authority granted in section 2264 of this title, or the net proceeds from the liquidation of any other property so accepted, or the proceeds of any insurance on any gift property not used for its restoration shall be deposited in the Treasury of the United States for credit into a separate account and shall be disbursed upon order of the Secretary of Agriculture.
  - Reference: 7 U.S.C. § 2265 (2017)
- Notwithstanding any other provision of law, the Secretary of Agriculture is authorized to accept, receive, hold, utilize, and administer on behalf of the United States gifts, bequests, or devises of real and personal property made for the benefit of the United States Department of Agriculture or for the carrying out of any of its functions. . . Any gift of money accepted pursuant to the authority granted in this section, or the net proceeds from the liquidation of any property so accepted, or the proceeds of any insurance on any gift property not used for its restoration shall be deposited in the Treasury of the United States for credit to a separate fund and shall be disbursed upon order of the Secretary of Agriculture.
  - Reference: 7 U.S.C. § 2269 (2017)
- For fiscal year 1999 and thereafter, funds transferred to the Office of the Inspector General through forfeiture proceedings or from the Department of Justice Assets Forfeiture Fund or the Department of the Treasury Forfeiture Fund, as a participating

agency, as an equitable share from the forfeiture of property in investigations in which the Office of the Inspector General participates, or through the granting of a Petition for Remission or Mitigation, shall be deposited to the credit of this account for law enforcement activities authorized under the Inspector General Act of 1978, to remain available until expended.

- Reference: 7 U.S.C. § 2270a (2017)
- The Graduate School [of the Department of Agriculture] may charge and retain fair and reasonable fees for the activities provided by the Graduate School. . .The graduate school may accept, use, hold, dispose, and administer gifts, bequests, and devises of money, securities, and other real or personal property made for the benefit of or in connection with, the Graduate School. . .Fees collected. . .and amounts received. . .shall not be considered to be Federal funds and shall not be required to be deposited in the Treasury of the United States.
  - Reference: 7 U.S.C. § 2279b(d) (2017)
- In order to carry out the activities of the Graduate School, the Graduate School may dispose of real and personal property without regard to chapters 1 to 11 of Title 40 and Division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of Title 41.
  - Reference: 7 U.S.C. § 2279b(h) (2017)

*Reporting Requirements:* The rural development strategy and the annual updates to the strategy shall be transmitted to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry by January 31 of the calendar year immediately preceding the beginning of the appropriate fiscal year.

- Reference: 7 U.S.C. § 2240b(c)(5) (2017)
- Not later than 1 year after February 14, and annually thereafter, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the progress that has been made in implementing this section and identifying any additional needs and barriers related to developing local and regional food systems.
  - Reference: 7 U.S.C. § 2204h(c) (2017)
- Not later than 20 days after the end of each fiscal year, the Secretary of Agriculture shall submit to Congress a report on the amounts obligated and expended by the Department during that fiscal year for the procurement of advisory and assistance services.
  - Reference: 7 U.S.C. § 2207a(a) (2017)
- Not later than 4 years after February 7, 2014, and every 2 years thereafter, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that contains the data described in section (a) [regarding economic activities created through grants and loans].
  - Reference: 7 U.S.C. § 2207b(c)(1) (2017)
- There shall be prepared by the Department of Agriculture an annual report on the work and expenditures of the agricultural experiment stations established under the Act of Congress of March 2, 1887, on the work and expenditures of the Department of Agriculture in connection therewith, and on the cooperative agricultural extension work and expenditures of the Department of Agriculture and of agricultural colleges. . .and

there shall be printed annually 8,000 copies of said report, of which 1,000 copies shall be for use of the Senate, [and] 2,000 copies for the use of the House of Representatives.

- Reference: 7 U.S.C. § 2207c (2017)
- Not later than September 30 of each year, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on conferences sponsored or held by the Department of Agriculture or attended by employees of the Department of Agriculture.
  - Reference: 7 U.S.C. § 2255b(a)(1) (2017)
- As soon as possible after completing an investigation under section 2270b of this title [employee death related to wildfire entrapment or burnover], the Inspector General of the Department of Agriculture shall submit to Congress and the Secretary of Agriculture a report containing the results of the investigation.
  - Reference: 7 U.S.C. § 2270c (2017)
- The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, and make publicly available, an annual report that includes a list of the following: the recipients of funds made available under the [outreach and technical assistance to socially disadvantaged farmers] program; the activities undertaken and services provided; the number of current and prospective socially disadvantaged farmers or ranchers served and outcomes of such service; the problems and barriers identified by entities in trying to increase participation by current and prospective socially disadvantaged farmers or ranchers.
  - Reference: 7 U.S.C. § 2279(a)(3)(D) (2017)
- Not later than September 30, 1992 and every two years thereafter, the Secretary shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate regarding the efforts of the Secretary to enhance participation by veterans farmers or ranchers and members of socially disadvantaged groups in agricultural programs; the specific participation goals established for each agricultural program; the results achieved for each agricultural program; and the progress of the Department towards meeting each of the purposes described in paragraph (2)(C).
  - Reference: 7 U.S.C. § 2279(c)(1) (2017)
- Every year, the Secretary shall prepare a report that describes, for each agency of the Department of Agriculture the number of civil rights complaints filed that relate to the agency, including whether a complaint is a program complaint or an employment complaint; the length of time the agency took to process each civil rights complaint; the number of proceedings brought against the agency, including the number of complaints described in paragraph (1) that were resolved with a finding of discrimination; and the number and type of personnel actions taken by the agency following resolution of civil rights complaints; [and] submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a copy of the report.
  - Reference: 7 U.S.C. § 2279-2 (2017)

*Review Commissions:* None

*Advisory Commissions:* The Secretary shall develop a process through which multistate, State, substate, and local rural development needs, goals, objectives, plans and recommendations can be received and assessed on a continuing basis. Such process may include. . .the establishment of temporary advisory committees.

- Reference: 7 U.S.C. § 2204(b)(3) (2017)
- Funds available for carrying out the activities of the Department of Agriculture shall be available for expenses of advisory committees.
  - Reference: 7 U.S.C. § 2233 (2017)

*Action Require Outside Approval:* On and after November 10, 2005, agencies and offices of the Department of Agriculture may utilize any unobligated salaries and expenses funds to reimburse the Office of the General Counsel for salaries and expenses of personnel, and for other related expenses, incurred in representing such agencies and offices in the resolution of complaints by employees or applicants for employment, and in cases and other matters pending before the Equal Employment Opportunity Commission, the Federal Labor Relations Authority, or the Merit Systems Protection Board with the prior approval of the Committees of Appropriations of both Houses of Congress.

- Reference: 7 U.S.C. § 2209h (2017)
- A working capital fund of \$400,000 is established without fiscal year limitation, for the payment of salaries and other expenses necessary to the maintenance and operation of central duplicating, photogenic, and tabulating services; a central motor-transport service for the maintenance, repair, and operation of motor-transport vehicles and other equipment; a central supply service for the purchase, storage, handling, issuance, packing, or shipping of stationery, supplies, equipment, blank forms, and miscellaneous materials, for which stocks thereof, not to exceed \$200,000 in value (except for the value of blank forms) at the close of any fiscal year, may be maintained sufficient to meet, in whole or in part, requirements of the bureaus and offices of the Department in the city of Washington and elsewhere; and such other services as the Secretary, with the approval of the Director of the Office of Management and Budget, determines may be performed more advantageously as central services.
  - Reference: 7 U.S.C. § 2235 (2017)
- On or after November 28, 2001, refunds or rebates received on an on-going basis from a credit card services provider under the Department of Agriculture's charge card programs may be deposited to and retained without fiscal year limitation in the Department's Working Capital Fund established under section 2235 of this title and used to fund management initiatives of general benefit to the Department of Agriculture bureaus and offices as determined by the Secretary of Agriculture or the Secretary's designee.
  - Reference: 7 U.S.C. § 2235a (2017)
- There is hereby established in the Treasury of the United States a fund to be known as the "Nonrecurring expenses fund": Provided, That unobligated balances of expired discretionary funds appropriated in this or any succeeding fiscal year from the General Fund of the Treasury to the Department of Agriculture (except the Forest Service) by this or any other Act may be transferred (not later than the end of the fifth fiscal year after the last fiscal year for which such funds are available for the purposes for which appropriated) into the Fund: Provided further, That amounts deposited in the Fund shall be available until expended, and in addition to such other funds as may be available for such purposes, for facilities infrastructure capital acquisition necessary for the operation

of the Department of Agriculture, subject to approval by the Office of Management and Budget: Provided further, That amounts in the Fund may be obligated only after the Committees on Appropriations of the House of Representatives and the Senate are notified at least 15 days in advance of the planned use of funds.

- Reference: 7 U.S.C. § 2250b (2017)

*Legislative Veto:* None

*Adjudication:*<sup>80</sup> None

### **Agricultural Marketing Service**

*Date of Creation:* July 7, 1939<sup>81</sup>

*Statute:* Not established in U.S. Code

### **Agricultural Research Service**

*Date of Creation:* November 2, 1953<sup>82</sup>

*Statute:* Not established in U.S. Code

### **Animal and Plant Health Inspection Service**

*Date of Creation:* March 14, 1977<sup>83</sup>

*Statute:* Not established in U.S. Code

### **Commodity Credit Corporation**

*Date of Creation:* June 29, 1948<sup>84</sup>

*Statute:* 15 U.S.C. §§ 714-714p (2017)

*Authorizing Language:* There is created a body corporate to be known as the Commodity Credit Corporation, which shall be an agency and instrumentality of the United States, within the Department of Agriculture, subject to the general supervision and direction of the Secretary of Agriculture.

- Reference: 15 U.S.C. § 714 (2017)

*Commissioners/Board Members:* The management of the Corporation shall be vested in a board of directors, subject to the general supervision and direction of the Secretary. . . The Board shall consist of seven members (in addition to the Secretary [of Agriculture, who serves ex officio]), who shall be appointed by the President.

- Reference: 15 U.S.C. § 714g(a) (2017)

*Quorum Rules:* A majority of the directors shall constitute a quorum of the Board and action shall be taken only by a majority vote of those present.

- Reference: 15 U.S.C. § 714g(a) (2017)

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<sup>80</sup> Employs administrative law judges. Association of Administrative Law Judges. “Agencies Employing Administrative Law Judges,” <http://www.aalj.org/agencies-employing-administrative-law-judges> (accessed October 30, 2017).

<sup>81</sup> Secretary’s Memorandum 830, July 7 1989.

<sup>82</sup> The Service was established in its current form by Secretary’s Memorandum 1320, supplement 4, November 2, 1953. However, the bureau’s predecessor agency (Agricultural Research Administration) was established in 1942 by by E.O. 9069 .

<sup>83</sup> Secretary’s Memorandum 1914, March 14, 1977.

<sup>84</sup> Commodity Credit Corporation Charter Act, Pub. L. No. 80-806, 62 Stat. 1070 (1948). The Corporation was originally incorporated on October 17, 1933. However, it was reincorporated as a federal corporation within the USDA in 1948.

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* None

*Fixed Terms:* None

*Staggered Terms:* None

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The Secretary [of Agriculture]. . .shall serve as Chairman of the Board.

- Reference: 15 U.S.C. § 714g(a) (2017)

*OMB Review:* None

*Independent Litigating:* Nonw

*Independent Sources of Funding:* The Corporation. . .may make such loans and advances of its funds as are necessary in the conduct of its business

- Reference: 15 U.S.C. § 714b(l) (2017)
- The Corporation is authorized to use in the conduct of its business all its funds and other assets, including capital and net earnings therefrom, and all funds and other assets which have been or may hereafter be transferred or allocated to, borrowed by, or otherwise acquired by it.
  - Reference: 15 U.S.C. § 714f (2017)

*Reporting Requirements:* The Corporation shall at all times maintain complete and accurate books of account and shall file annually with the Secretary of Agriculture a complete report as to the business of the Corporation, a copy of which shall be forwarded by the Secretary of Agriculture to the President for transmission to the Congress.

- Reference: 15 U.S.C. § 714k (2017)
- In addition to the annual report, the Corporation shall submit to Congress on a quarterly basis an itemized report of all expenditures over \$10,000 made under section 714c or 714i of this title during the period covered by the report, including expenditures in the form of allotments or fund transfers to other agencies and departments of the Federal Government.
  - Reference: 15 U.S.C. § 714k (2017)

*Review Commissions:* None

*Advisory Commissions:* There shall be an advisory board. . .[which] shall survey the general policies of the Corporation, including its policies in connection with the purchase, storage, and sale of commodities, and the operation of lending and price-support programs and shall advise the Secretary with respect thereto.

- Reference: 15 U.S.C. § 714g(b) (2017)

*Action Require Outside Approval:* Notwithstanding any other provision of law, the Commodity Credit Corporation shall, to the maximum extent practicable. . .and upon terms and conditions prescribed or approved by the Secretary of Agriculture, accept strategic and critical materials produced abroad in exchange for agricultural commodities acquired by the Corporation.

- Reference: 15 U.S.C. § 714b(h) (2017)
- Strategic and critical materials acquired by the Commodity Credit Corporation in exchange for agricultural commodities shall, to the extent approved by the President, be

transferred to a stock pile provided for by the Strategic and Critical Materials Stock Piling Act.

- Reference: 15 U.S.C. § 714b(h) (2017)
- If the volume of petroleum products (including crude oil) stored in the Strategic Petroleum Reserve is less than the level prescribed under section 6234 of Title 42, the Corporation shall, to the maximum extent practicable and with the approval of the Secretary of Agriculture, make available annually to the Secretary of Energy, upon the request of the Secretary of Energy, a quantity of agricultural products owned by the Corporation with a market value at the time of such request of at least \$300,000,000 for use by the Secretary of Energy in acquiring petroleum products (including crude oil) produced abroad for placement in the Strategic Petroleum Reserve through an exchange of such agricultural products. The terms of conditions of each such exchange, including provisions for full reimbursement to the Commodity Credit Corporation, shall be determined by the Secretary of Energy and the Secretary of Agriculture.
  - Reference: 15 U.S.C. § 714b(h) (2017)

*Legislative Veto:* None

*Adjudication:* None

### **Economic Research Service**

*Date of Creation:* September 17, 1980<sup>85</sup>

*Statute:* Not established in U.S. Code

### **Farm Service Agency**

*Date of Creation:* October 13, 1994<sup>86</sup>

*Statute:* 7 U.S.C. §§ 6932-6932a (2017)

*Authorizing Language:* The Secretary [of Agriculture] is authorized to establish and maintain in the Department a Consolidated Farm Service Agency.

- Reference: 7 U.S.C. § 6932(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* None

*OMB Review:* None

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<sup>85</sup> Established in its current form by Secretary's Memorandum 2025, September 17, 1980. However, economic research functions of the Department of Agriculture were consolidated into the Bureau of Agricultural Economics (ERS's predecessor agency) in 1922).

<sup>86</sup> Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994, Pub. L. No. 103-354, 108 Stat. 3214 (1994). The agency was renamed the Farm Service Agency in November, 1995.

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* The Secretary of Agriculture may not close a county or field office of the Farm Service Agency unless not later than 30 days after the Secretary proposed to close such office, the Secretary holds a public meeting regarding the proposed closure in the county in which such office is located and after the public meeting. . . , but not less than 90 days before the date on which the Secretary approves the closure of such office, the Secretary notifies the Committee on Agriculture and the Committee on Appropriations of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations of the Senate, each Senator representing the State in which the office proposed to be closed is located, and the member of the House of Representatives who represents the Congressional district in which the office proposed to be closed is located of the proposed closure of such office.

- Reference: 7 U.S.C. § 6932a(b) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* In carrying out the programs specified in subsection (b)(4) of this section [relating to the Food Security Act], the Secretary shall ensure that the Consolidated Farm Service Agency, in establishing policies, priorities, and guidelines for such programs, does so with the concurrence of the Natural Resources Conservation Service at national, State, and local levels.

- Reference: 7 U.S.C. § 6932(c)(3) (2017)
- With respect to administrative appeals involving a technical determination made by the Natural Resources Conservation Service, the Consolidated Farm Service Agency, by rule with the concurrence of the Natural Resources Conservation Service, shall establish procedures for obtaining review by the Natural Resources Conservation Service of the technical determinations involved.
  - Reference: 7 U.S.C. § 6932(d)(2)(A) (2017)

*Legislative Veto:* None

*Adjudication:* None

### **Federal Crop Insurance Corporation**

*Date of Creation:* February 16, 1938<sup>87</sup>

*Statute:* 7 U.S.C. §§ 1501-1524 (2017)

*Authorizing Language:* There is hereby created as an agency of and within the Department [of Agriculture] a body corporate with the name Federal Crop Insurance Corporation.

- Reference: 7 U.S.C. § 1503 (2017)
- The Corporation shall have such powers as may be necessary or appropriate for the exercise of powers herein specifically conferred upon the Corporation and all such incidental powers as are customary in corporations generally.
  - Reference: 7 U.S.C. § 1506(k) (2017)

*Commissioners/Board Members:* The management of the Corporation shall be vested in a Board of Directors subject to the general supervision of the Secretary. The Board shall consist only of the following members: the manager of the Corporation, who shall serve as a

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<sup>87</sup> Federal Crop Insurance Act, 52 Stat. 72 (1938).

nonvoting ex officio member; the Under Secretary of Agriculture responsible for the Federal crop insurance program; one additional Under Secretary of Agriculture (as designated by the Secretary); the Chief Economist of the Department of Agriculture; one person experienced in the crop insurance business; one person experienced in reinsurance or the regulation of insurance; four active producers who are policy holders. . .The members of the Board [selected for their experience and the policy holders] shall be appointed by, and hold office at the pleasure of, the Secretary.

- Reference: 7 U.S.C. § 1505(a) (2017)

*Quorum Rules:* Vacancies in the Board so long as there shall be four members in office shall not impair the powers of the Board to execute the functions of the Corporation, and four members in office shall constitute a quorum for the transaction of the business of the Board.

- Reference: 7 U.S.C. § 1505(b) (2017)

*Agency Specific Personnel:* The Secretary shall appoint such officers and employees as may be necessary for the transaction of the business of the Corporation pursuant to civil-service laws and regulations. . .However, personnel paid by the hour, day, or month when actually employed may be appointed without regard to civil-service laws and regulations.

- Reference: 7 U.S.C. § 1507(a) (2017)

*Limitation on Appointment:* One [member of the Board shall be] experienced in the crop insurance business; one person experienced in the reinsurance or regulation of insurance; and four active producers who are policy holders, are from different geographic areas of the United States, and represent a cross-section of agricultural commodities grown in the United States, including at least one specialty crop producer.

- Reference: 7 U.S.C. § 1505(a)(2)(E)-(G) (2017)

*Party Balancing:* None

*Fixed Terms:* The [appointed] members of the Board shall be appointed to. . .4-year terms. . .and shall not serve more than two consecutive terms.

- Reference: 7 U.S.C. § 1505(a)(3) (2017)

*Staggered Terms:* The [appointed] members of the Board shall be appointed to staggered 4-year terms, as determined by the Secretary.

- Reference: 7 U.S.C. § 1505(a)(3) (2017)

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The Board shall select a member of the Board to serve as Chairperson.

- Reference: 7 U.S.C. § 1505(a)(4) (2017)

*OMB Review:* None

*Independent Litigating:* Subject to section 1508(j)(2) of this title, the Corporation, subject to the provisions of section 1508(j) of this title [relating to claims for losses], may sue and be sued in its corporate name.

- Reference: 7 U.S.C. § 1506(d) (2017)
- The Corporation shall have the authority to make final and conclusive settlement and adjustment of any claim by or against the Corporation or a fiscal officer of the Corporation.
  - Reference: 7 U.S.C. § 1506(j) (2017)

*Independent Sources of Funding:* The Corporation shall determine the character and necessity for its expenditures under this subchapter and the manner in which they shall be incurred, allowed, and paid without regard to the provisions of any other laws governing the expenditure of public funds and such determinations shall be final and conclusive upon all other officers of the Government.

- Reference: 7 U.S.C. § 1506(i) (2017)
- Each producer shall pay an administrative fee for catastrophic risk production in the amount of \$300 per crop per county. . .The amounts paid under this paragraph shall be deposited in the crop insurance fund established under section 1516(c) of this title, to be available for the programs and activities of the Corporation.
  - Reference: 7 U.S.C. § 1508(b)(5) (2017)
- If a producer elects to purchase coverage for a crop at a level in excess of catastrophic risk protection, the producer shall pay an administrative fee for the additional coverage of \$30 per crop per county. Subparagraphs (D) and (E) of subsection (b)(5) of this section shall apply with respect to the collection and use of administrative fees under this paragraph.
  - Reference: 7 U.S.C. § 1508(c)(10) (2017)
- All money of the Corporation not otherwise employed may be deposited with the Treasurer of the United States or in any bank approved by the Secretary of the Treasury, subject to withdrawal by the Corporation at any time, or with the approval of the Secretary of the Treasury may be invested in obligations in the United States or in obligations guaranteed as to principal and interest by the United States. Subject to the approval of the Secretary of the Treasury, the Federal Reserve banks are hereby authorized and directed to act as depositories, custodians and fiscal agents for the corporation in performance of its powers conferred by this subchapter.
  - Reference: 7 U.S.C. § 1510 (2017)
- There is established an insurance fund, for the deposit of premium income, amounts made available under subsection (a)(2) of this section [relating to appropriations for Corporation expenses] and civil fines collected under section 1515(h) of this title, to be available without fiscal year limitation. . .For each of the 1999 and subsequent reinsurance years, the Corporation may pay from the insurance fund. . .all expenses of the Corporation.
  - Reference: 7 U.S.C. § 1516 (2017)

*Reporting Requirements:* Not later than 1 year after October 13, 1994, and annually thereafter, the Corporation shall report to Congress on the progress and expected timetable for expanding crop insurance coverage under this subchapter to new and specialty crops.

- Reference: 7 U.S.C. § 1508(a)(6)(B) (2017)
- The Corporation shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an annual report on progress made in developing and improving Federal crop insurance for organic crops.
  - Reference: 7 U.S.C. § 1508(c)(6)(D)(ii) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* Effective beginning with the 2015 crop year, the Risk Management Agency and the Corporation shall make available to producers of peanuts a revenue crop insurance program for peanuts.

- Reference: 7 U.S.C. § 1508c(c) (2017)
- All money of the Corporation not otherwise employed may be deposited with the Treasurer of the United States or in any bank approved by the Secretary of the Treasury, subject to withdrawal by the Corporation at any time, or with the approval of the Secretary of the Treasury may be invested in obligations in the United States or in obligations guaranteed as to principal and interest by the United States. Subject to the approval of the Secretary of the Treasury, the Federal Reserve banks are hereby authorized and directed to act as depositories, custodians and fiscal agents for the corporation in performance of its powers conferred by this subchapter.
  - Reference: 7 U.S.C. § 1510 (2017)

*Legislative Veto:* None

*Adjudication:* None

### **Food and Nutrition Service**

*Date of Creation:* August 8, 1969<sup>88</sup>

*Statute:* Not established in U.S. Code

### **Food Safety and Inspection Service**

*Date of Creation:* March 14, 1977<sup>89</sup>

*Statute:* Not established in U.S. Code

### **Foreign Agricultural Service**

*Date of Creation:* June 5, 1930<sup>90</sup>

*Statute:* 7 U.S.C. §§ 5692-5695 (2017)

*Authorizing Language:* There is hereby established in the Department of Agriculture the position of Administrator of the Foreign Agricultural Service.

- Reference: 7 U.S.C. § 5692(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

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<sup>88</sup> Secretary's Memorandum 1659, supplement 1, August 8, 1969.

<sup>89</sup> Secretary's Memorandum 1914, March 14, 1977 (established as Food Safety and Quality Service). Redesignated Food Safety and Inspection Service by Secretary's Memorandum, 1000-1, June 17, 1981.

<sup>90</sup> Foreign Agricultural Service Act, Pub. L. No. 304, 46 Stat. 497 (1930).

*Who is Head of Agency:* In carrying out the duties under this section, the Administrator shall oversee the operations of the Foreign Agricultural Service.

- Reference: 7 U.S.C. § 5692(c) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Forest Service**

*Date of Creation:* February 1, 1905<sup>91</sup>

*Statute:* 16 U.S.C. §§ 471a-539r; 551-583k-5 (2017)

*Authorizing Language:* None

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* Forest supervisors and rangers shall be selected, when practicable, from qualified citizens of the States or Territories in which the national forests, respectively, are situated.

- Reference: 16 U.S.C. § 554 (2017)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* None

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* Whenever national-forest lands are withdrawn under sections 552a to 552d of this title, and the municipality concerned objects to the utilization of timber and other resource lands withdrawn, and the Secretary of Agriculture agrees to withhold such resources from utilization, said municipality shall pay to the Forest Service annually an amount which the Secretary of Agriculture shall determine is necessary to reimburse the United States for the loss of net annual revenues which would be derived from the resources so withheld from disposition.

- Reference: 16 U.S.C. § 552c (2017)
- To enable owners of lands chiefly valuable for the growing of timber crops to donate or devise such lands to the United States in order to assure future timber supplies for the

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<sup>91</sup> Transfer Act of 1905, Pub. L. No. 58-33, 33 Stat. 628 (1905).

agricultural and other industries of the State or for other national forest purposes, the Secretary of Agriculture is authorized, in his discretion, to accept on behalf of the United States title to any such land so donated or devised. . . All lands to which title is accepted under this section shall, upon acceptance of title, become national forest lands.

- Reference: 16 U.S.C. § 569 (2017)
- The Secretary of Agriculture is authorized, where the public interest justifies, to cooperate with or assist public and private agencies, organizations, institutions, and persons in performing work on land in State, county, municipal, or private ownership, situated within or near a national forest, for which the administering agency, owner, or other interested party deposits in one or more payments a sufficient sum to cover the total estimated cost of the work to be done for the benefit of the depositor, for administration, protection improvement, reforestation, and such other kinds of work as the Forest Service is authorized to do on lands of the United States. . . Moneys deposited under this section shall be covered into the Treasury and shall constitute a special fund, which is made available until expended for payment of the cost of work performed by the Forest Service and for refunds to depositors of amounts deposited by them in excess of their share of said cost.
  - Reference: 16 U.S.C. § 572 (2017)
- The Forest Service may accept money from timber purchasers for deposit into the Treasury in the trust account, “Forest Service cooperative fund”, which moneys are made available for scaling services requested by purchasers in addition to those required by the Forest Service, and for refunds of amounts deposited in excess of the cost of such work.
  - Reference: 16 U.S.C. § 572a (2017)
- There is established a working capital fund which shall be available without fiscal year limitation for expenses necessary including the purchase or construction of buildings and improvements without the limitations thereon set forth in the appropriations for the Forest Service, for furnishing supply and equipment services in support of programs of the Forest Service. The Secretary of Agriculture is authorized to transfer to the fund, without reimbursement, and to capitalize in the fund at fair and reasonable values, such receivables, inventories, and other assets as he may determine, and sum the liabilities in connection with such assets: Provided that the fund shall be credited with advance payments in connection with firm orders and reimbursements from appropriations and funds of the Forest Service, other departmental and Federal agencies, and from other sources, as authorized by law, at rates approximately equal to the cost of furnishing the facilities and service.
  - Reference: 16 U.S.C. § 579b (2017)
- Any moneys received by the United States with respect to lands under the administration of the Forest Service as the result of the forfeiture of a bond or deposited by a permittee or timber purchaser for failure to complete performance of improvement, protection, or rehabilitation work required under the permit or timber sale contract or as a result of a judgment, compromise, or settlement of any claim, involving present or potential damage to lands or improvements, shall be covered into the Treasury and are hereby appropriated and made available until expended to cover the cost to the United States of any improvement, protection, or rehabilitation work on lands under the administration of the Forest Service rendered necessary y the action which led to the forfeiture, judgment, compromise, or settlement: Provided that any portion of the moneys so received in excess

of the amount expended in performing the work necessitated by the action which led to their receipt shall be transferred to miscellaneous receipts.

- Reference: 16 U.S.C. § 579c (2017)
- The Forest Service may sell and distribute supplies, equipment, and materials to other Government activities and to State and private agencies who cooperate with the Forest Service in fire control under terms of written cooperative agreements, the cost of such supplies, equipment, and materials, including the cost of supervision, transportation, warehousing, and handling, to be reimbursed to appropriations current at the time additional supplies, equipment, and materials are procured for warehouse stocks.
  - Reference: 16 U.S.C. § 580a (2017)
- Notwithstanding any other provision of law, fees received by the National Tree Seed Laboratory, administered by the Forest Service, United States Department of Agriculture, for the provision of a tree seed testing service, shall be retained and deposited as a reimbursement to current appropriations used to cover the costs of providing such service.
  - Reference: 16 U.S.C. § 580q (2017)
- Amounts deposited pursuant to subsection (b) [deposit of fees charged for authorizations to use National Forest System lands] shall be available, without further appropriation, for expenditure by the Secretary of Agriculture to cover costs incurred by the Forest Service for the processing of applications for special use authorizations and for monitoring activities undertaken in connection with such authorizations. Amounts in the special account shall remain available for such purposes until expended.
  - Reference: 16 U.S.C. § 497e(c) (2017)
- On or after June 30, 1914, all moneys received as contributions toward cooperative work in forest investigations, or the protection, management, and improvement of the National Forest System, shall be covered into the Treasury and shall constitute a special fund, which is appropriated and made available until expended, as the Secretary of Agriculture may direct, for the payment of expenses of said investigation, protection, management, or improvements by the Forest Service, and for refunds to the contributors of amounts heretofore or hereafter paid in by them in excess of their share of the cost of said investigations, protection, management, or improvements.
  - Reference: 16 U.S.C. § 498 (2017)
- All money received by or on account of the Forest Service for timber, or from any other source of national-forest revenue, including moneys received from sale of products from or for the use of lands in national forests created under section 471(b) of this title, and moneys received on account of permits for hunting, fishing, or camping on lands acquired under authority of sections 513 to 517 and 521 of this title, shall be covered into the Treasury of the United States as a miscellaneous receipt and is hereby appropriated and made available as the Secretary of Agriculture may direct out of any funds in the Treasury not otherwise appropriated, so much as may be necessary to make refunds to depositors of money heretofore or hereafter deposited by them to secure the purchase price on the sale of any products or for the use of any land or resources of the national forests in excess of amounts found actually due from the to the United States and also as much as may be necessary to refund or pay over to the rightful claimants such sums as may be found by the Secretary of Agriculture to have been erroneously collected for the use of any lands, or for timber or other resources sold from lands located within, but not

part of, the national forests, or for alleged illegal acts done upon such lands, which acts are subsequently found to have been proper and legal.

- Reference: 16 U.S.C. § 499 (2017)
- The Secretary of Agriculture is authorized, subject to such conditions as he may prescribe, to sell forest-tree seed and nursery stock to States and political subdivisions thereof and to public agencies of other countries, at rates not less than the actual or estimated cost to the United States of procuring or producing such seed or nursery stock, moneys received from the sale thereof to be credited to the appropriation or appropriations of the Forest Service currently available for the procurement or production of seed or nursery stock at the time such moneys are deposited.
  - Reference: 16 U.S.C. § 504a (2017)
- Whenever the agreement under which the United States has obtained for the use of, or in connection with, the national forests or other lands administered by the Forest Service a right-of-way or easement for a road or an existing road or the right to use an existing road provides for the delayed payments to the Government's grantor, any fees or collections received by the Secretary for the use of the road may be placed in a fund to be available for making payments to the grantor.
  - Reference: 16 U.S.C. § 538 (2017)

*Reporting Requirements:* The Secretaries [of Interior and Agriculture, acting through the Chief of the Forest Service] shall jointly submit to Congress an annual report on the wildland firefighter safety practices of the Secretaries, including training programs and activities for wildland fire suppression, prescribed burning, and wildland wildfire use, during the preceding calendar year.

- Reference: 16 U.S.C. § 551d(b)(1) (2017)
- After consultation required by subsection (c) of this section [regarding the proper location of facilities and services for the James Peak Fall River trailhead], the Forest Supervisor shall submit to the Committee on Resources and the Committee on Appropriations of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate a report regarding the amount of any additional funding required to implement this section.
  - Reference: 16 U.S.C. § 539l-2(d) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* The authorities conferred herein [relating to the Forest Service's law enforcement duties] shall be exercised pursuant to an agreement approved by the Secretary of Agriculture and the Attorney General.

- Reference: 16 U.S.C. § 559f (2017)
- The Secretary [acting through the chief of the Forest Service] shall consult with the Pueblo not less than twice each year, unless otherwise mutually agreed, concerning protection, preservation, and management of the [T'uf Shur Bien Preservation Trust] Area (including proposed new uses and modified uses in the Area and authorizations that are anticipated during the next 6 months and were approved in the preceding 6 months). If the Pueblo denies consent for a new use within 30 days after completion of the consultation process, the Secretary shall not proceed with the new use. . . If the Pueblo denies consent for a new use within 30 days after receipt by the Pueblo of the proposed record of decision or decision notice, the new use shall not be authorized.

- Reference: 16 U.S.C. § 539m-5 (2017)

*Legislative Veto:* None

*Adjudication:* None

**Grain Inspection, Packers, and Stockyards Administration**

*Date of Creation:* October 1994<sup>92</sup>

*Statute:* Not established in U.S. Code

**National Agricultural Statistics Service**

*Date of Creation:* May 28, 1863<sup>93</sup>

*Statute:* Not established in U.S. Code

**National Institute of Food and Agriculture**

*Date of Creation:* May 22, 2008<sup>94</sup>

*Statute:* 7 U.S.C. § 6971(f) (2017)

*Authorizing Language:* The Secretary [of Agriculture] shall establish within the Department an agency to be known as the “National Institute of Food and Agriculture.”

- Reference: 7 U.S.C. § 6971(f)(2)(A) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* The Institute shall be headed by a Director, who shall be an individual who is a distinguished scientist.

- Reference: 7 U.S.C. § 6971(f)(3)(A)(i) (2017)

*Party Balancing:* N/A

*Fixed Terms:* The Director shall serve for a 6-year term, subject to reappointment for an additional 6-year term.

- Reference: 7 U.S.C. § 6971(f)(2)(C)(i) (2017)

*Staggered Terms:* N/A

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The Institute shall be headed by a Director, who shall be an individual who is . . . appointed by the President.

- Reference: 7 U.S.C. § 6971(f)(3)(A)(ii) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

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<sup>92</sup> The creation of the Grain Inspection, Packers, and Stockyard Administration resulted from a direction in the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994, Pub. L. No. 103-354, 108 Stat. 3178 (1994). In 2017, GIPSA was eliminated as a standalone bureau and its functions were transferred to the Agricultural Marketing Service. Secretary’s Memorandum (November 14, 2017).

<sup>93</sup> Established as Division of Statistics. Established in its current form by Secretary’s Memorandum 1020-24 (April 17, 1986).

<sup>94</sup> Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-234, 122 Stat. 923 (2008).

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* The Director shall. . .consult regularly with the [National Agricultural Research, Extension, Education, and Economics] Advisory Board.

- Reference: 7 U.S.C. § 6971(f)(3)(E)(v) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Natural Resources Conservation Service**

*Date of Creation:* April 27, 1935<sup>95</sup>

*Statute:* 7 U.S.C. §§ 6962-6962a (2017)

*Authorizing Language:* The Secretary [of Agriculture] is authorized to establish and maintain within the Department a Natural Resources Conservation Service.

- Reference: 7 U.S.C. § 6962(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* None

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Risk Management Agency**

*Date of Creation:* April 4, 1996<sup>96</sup>

*Statute:* 7 U.S.C. § 6933 (2017)

*Authorizing Language:* The Secretary shall establish and maintain in the Department an independent Office of Risk Management.

- Reference: 7 U.S.C. § 6933(a) (2017)

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<sup>95</sup> Pub. L. No. 74-46, 49 Stat. 163 (1935). The NCRS originally was established as the Soil Conservation Service and changed names in 1994 to the Natural Resources Conservation Service.

<sup>96</sup> Federal Agriculture Improvement and Reform Act of 1996, Pub. L. No. 104-127, 110 Stat. 888 (1996).

*Commissioners/Board Members:* None  
*Quorum Rules:* N/A  
*Agency Specific Personnel:* None  
*Limitation on Appointment:* None  
*Party Balancing:* N/A  
*Fixed Terms:* None  
*Staggered Terms:* N/A  
*For Cause:* N/A  
*Serve President:* None  
*Continuation until Replacement:* None  
*Acting Service Rules:* None  
*Who is Head of Agency:* The Office of Risk Management shall be headed by an Administrator who shall be appointed by the Secretary.

- Reference: 7 U.S.C. § 6933(c)(1) (2017)

*OMB Review:* None  
*Independent Litigating:* None  
*Independent Sources of Funding:* None  
*Reporting Requirements:* None  
*Review Commissions:* None  
*Advisory Commissions:* None  
*Action Require Outside Approval:* None  
*Legislative Veto:* None  
*Adjudication:* None

### **Rural Business-Cooperative Service**

*Date of Creation:* December 31, 1991<sup>97</sup>

*Statute:* 7 U.S.C. § 6944

*Authorizing Language:* Notwithstanding any other provision of law, the Secretary [of Agriculture] is authorized to establish and maintain within the Department the Rural Business and Cooperative Development Service and to assign to the Service such functions as the Secretary considers appropriate.

- Reference: 7 U.S.C. § 6944(a) (2017)

*Commissioners/Board Members:* None  
*Quorum Rules:* N/A  
*Agency Specific Personnel:* None  
*Limitation on Appointment:* None  
*Party Balancing:* N/A  
*Fixed Terms:* None  
*Staggered Terms:* N/A  
*For Cause:* N/A  
*Serve President:* None  
*Continuation until Replacement:* None  
*Acting Service Rules:* None

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<sup>97</sup> Established as Rural Business and Cooperative Development Service by Secretary's Memorandum 1020-34 (Dec. 31, 1991). Renamed Rural Business-Cooperative Service in 1996. Agency Name Change, 61 Fed. Reg. 2899 (Jan. 30, 1996).

*Who is Head of Agency:* None  
*OMB Review:* None  
*Independent Litigating:* None  
*Independent Sources of Funding:* None  
*Reporting Requirements:* None  
*Review Commissions:* None  
*Advisory Commissions:* None  
*Action Require Outside Approval:* None  
*Legislative Veto:* None  
*Adjudication:* None

### **Rural Housing Service**

*Date of Creation:* October 13, 1994<sup>98</sup>

*Statute:* 7 U.S.C. § 6943 (2017)

*Authorizing Language:* Notwithstanding any other provision of law, the Secretary is authorized to establish and maintain within the Department the Rural Housing and Community Development Service and to assign to the Service such functions as the Secretary considers appropriate.

- Reference: 7 U.S.C. § 6943(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* None

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Rural Utilities Service**

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<sup>98</sup> Established as Rural Housing and Community Development Service. Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994, Pub. L. 103-354, 108 Stat. 3219 (1994). Renamed Rural Housing Service in 1996. Agency Name Change, 61 Fed. Reg. 2899 (Jan. 30, 1996).

*Date of Creation:* October 13, 1994<sup>99</sup>

*Statute:* 7 U.S.C. § 6942 (2017)

*Authorizing Language:* The Secretary shall establish and maintain within the Department the Rural Utilities Service.

- Reference: 7 U.S.C. § 6942(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The Rural Utilities Service shall be headed by an Administrator who shall be appointed by the President.

- Reference: 7 U.S.C. § 6942(b)(1) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **DEPARTMENT OF COMMERCE**

*Date of Creation:* February 14, 1903<sup>100</sup>

*Statute:* 15 U.S.C. §§ 1501-1548 (2017)

*Authorizing Language:* There shall be at the seat of government an executive department to be known as the Department of Commerce.

- Reference: 15 U.S.C. § 1501 (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

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<sup>99</sup> Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994, Pub. L. 103-354, 108 Stat. 3219 (1994). The precursor to the Rural Utilities Service was the Rural Electrification Administration, which was established by Executive Order in 1935. Exec. Order. No. 7,037 (1935). The Rural Utilities Service assumed the Rural Electrification Administration's functions when the Administration was abolished in 1994. See Secretary's Memorandum 1010-1 (Oct. 20, 1994).

<sup>100</sup> An Act to Establish the Department of Commerce and Labor, Pub. L. No. 87, 32 Stat. 825 (1903).

*Limitation on Appointment:* For the purposes of carrying out export promotion and other fishery development responsibilities, the Secretary of Commerce. . .shall appoint not fewer than six officers who shall serve abroad to promote United States fishing interests. These officers shall be knowledgeable about the United States fishing industry, preferably with experience derived from the harvesting, processing, or marketing sectors of the industry or from the administration of fisheries programs.

- Reference: 15 U.S.C. § 1511b(a) (2017)
- The [Chesapeake Bay Office] shall be headed by a Director who. . .shall have knowledge and experience in research or resource management efforts in the Chesapeake Bay.
  - Reference: 15 U.S.C. § 1511d (2017)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* A Secretary of Commerce, who shall be the head [of the Department], who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 15 U.S.C. § 1501 (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* There is established a working capital fund of \$100,000, without fiscal year limitation, for the payment of salaries and other expenses necessary to the maintenance and operation of central duplicating, photographic, drafting, and photostetting services and other such services as the Secretary, with the approval of the Director of the Office of Management and Budget, determines as may be performed more advantageously as central services.

- Reference: 15 U.S.C. § 1521 (2017)
- The Secretary of Commerce is hereby authorized to accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department of Commerce. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed upon order of the Secretary of Commerce.
  - Reference: 15 U.S.C. § 1522 (2017)
- Upon the request of the Secretary of Commerce, the Secretary of the Treasury may invest and reinvest in securities of the United States or in securities guaranteed as to principal and interest by the United States any moneys contained in the fund authorized herein. Income accruing from such securities and from any other property accepted pursuant to section 1522 of this title, shall be deposited to the credit of the fund authorized herein, and shall be disbursed upon the order of the Secretary.
  - Reference: 15 U.S.C. § 1524 (2017)
- All payments for work or services performed or to be performed under this Act shall be deposited in a separate account or accounts which may be used to pay directly the costs

of such work or services, to repay or make advances to appropriations or funds which do or will initially bear all or part of such costs, or to refund excess sums when necessary: Provided that said receipts may be credited to a working capital fund otherwise established by law, and used under the law governing said funds, if the fund is available for use by the agency of the Department of Commerce which is responsible for performing the work or services for which payment is received.

- Reference: 15 U.S.C. § 1526 (2017)
- There is hereby established the Economics and Statistics Administration Revolving Fund which shall be available without fiscal year limitation.
  - Reference: 15 U.S.C. § 1527a (2017)
- In order to maintain overseas program activity for the Department of Commerce provided for each fiscal year at the appropriated program levels, the Secretary may establish Buying Power Maintenance accounts for the International Trade Administration, the Export Administration, and the United States Travel and Tourism Administration. There are authorized to be appropriated for such accounts such sums as may be necessary to offset adverse fluctuations in foreign currency exchange rates, or unbudgeted overseas wage and price changes. To eliminate substantial gains to the approved levels of overseas operations, the Secretary shall transfer to a Buying Power Maintenance account such amounts determined to be excessive to the needs of the approved level of overseas operations because of fluctuations in foreign currency exchange rates or changes in unbudgeted overseas wages and prices, including unobligated balances associated with the overseas program. To offset adverse fluctuations in foreign currency exchange rates or unbudgeted overseas wage and price changes, the Secretary may transfer from a Buying Power Maintenance account such amounts determined to be necessary to maintain the approved level of overseas operations under an appropriation account. Funds transferred by the Secretary to or from a Buying Power Maintenance account to another account shall be merged with and be available for the same purpose, and for the same time period, as the funds in the account into which transferred.
  - Reference: 15 U.S.C. § 1531 (2017)
- Except as otherwise provided in this section, the Secretary is authorized to assess fees, based on fair market value, for access to environmental data and information and products derived therefrom collected and/or archived by the National Oceanic and Atmospheric Administration.
  - Reference: 15 U.S.C. § 1534(a) (2017)

*Reporting Requirements:* The [Chesapeake Bay] Office, in consultation with the Chesapeake Executive Council, shall. . .submit a biennial report to the Congress and the Secretary of Commerce with respect to the activities of the Office and on the progress made in protecting and restoring the living resources and habitat of the Chesapeake Bay.

- Reference: 15 U.S.C. § 1511d(b)(7) (2017)
- Beginning in fiscal year 2007 and for each fiscal year thereafter, the Secretary of Commerce shall include in the budget justification materials that the Secretary submits to Congress in support of the Department of Commerce budget. . .an estimate for each National Oceanic and Atmospheric Administration procurement, acquisition and construction program having a total multiyear program cost of more than \$5,000,000 and an estimate of the budgetary requirements for each such program, for each of the five subsequent fiscal years.

- Reference: 15 U.S.C. § 1513a (2017)
- Beginning in fiscal year 2007 and for each fiscal year thereafter, the Secretary of Commerce shall include in the budget justification materials that the Secretary submits to Congress in support of the Department of Commerce budget. . .an estimate for each National Institute of Standards and Technology construction project having a total multiyear program cost of more than \$5,000,000 and simultaneously the budget justification materials shall include an estimate of the budgetary requirements for each such program, for each of the five subsequent fiscal years.
  - Reference: 15 U.S.C. § 1513b (2017)
- The Secretary of Commerce shall annually, at the close of each fiscal year, make a report in writing to Congress, giving an account of all moneys received and disbursed by him and his Department, and describing the work done by the Department in fostering, promoting, and developing the foreign and domestic commerce, the mining, manufacturing, and fishery industries, of the United States, and making such recommendations as he shall deem necessary for the effective performance of the duties and purposes of the Department.
  - Reference: 15 U.S.C. § 1519 (2017)
- The [National Oceanic and Atmospheric] Administration may not award any contract for the performance of any “commercial activity,” as defined by paragraph 6.a of the Office of Management and Budget Circular Memorandum A-76, which is performed by Administration employees until at least 30 calendar days after the Administrator of the Administration has presented, in writing, to the President of the Senate, the Speaker of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Merchant Marine and Fisheries and the Committee on Science, Space, and Technology of the House of Representatives, a full and complete description of such proposed contract, together with supporting documentation.
  - Reference: 15 U.S.C. § 1530 (2017)
- Not later than 12 months after October 29, 1992 and biennially thereafter, the Secretary of Commerce shall develop and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a comprehensive plan, based on the assessment under paragraph (1) [of the adequacy of the environmental data and information systems of NOAA], to modernize and improve the environmental data and information systems of the National Oceanic and Atmospheric Administration.
  - Reference: 15 U.S.C. § 1537 (2017)
- The Secretary of Commerce shall provide notice to the Committee on Commerce, Science, and Transportation and Committee on Appropriations of the Senate and to the Committee on Merchant Marine and Fisheries, Committee on Science, Space, and Technology, and Committee on Appropriations of the House of Representative, not less than 15 days before reprogramming funds available for a program, project, or activity of the National Oceanic and Atmospheric Administration in an amount greater than the lesser of \$250,000 or 5 percent of the total funding of such program, project, or activity if the reprogramming augments an existing program, project, or activity; reduces by 5 percent or more the funding for an existing program, project, or activity or the numbers of personnel therefore as approved by Congress; or results from any general savings from

a reduction in personnel which would result in a change in an existing program, project, or activity.

- Reference: 15 U.S.C. § 1538(a) (2017)
- The Secretary of Commerce shall provide notice to the Committees on Merchant Marine and Fisheries, Science, Space, and Technology, and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate not later than 15 days before any major reorganization of any program, project, or activity of the National Oceanic and Atmospheric Administration.
  - Reference: 15 U.S.C. § 1538(b) (2017)

*Review Commissions:* None

*Advisory Commissions:* The Secretary of Commerce is authorized to create an advisory committee. . .for the purpose of making recommendations concerning the promotion of tourist travel under the provisions of section 1544 to 1548 of this title.

- Reference: 15 U.S.C. § 1546 (2017)

*Action Require Outside Approval:* There is established a working capital fund of \$100,000, without fiscal year limitation, for the payment of salaries and other expenses necessary to the maintenance and operation of central duplicating, photographic, drafting, and photosetting services and other such services as the Secretary, with the approval of the Director of the Office of Management and Budget, determines as may be performed more advantageously as central services.

- Reference: 15 U.S.C. § 1521 (2017)

*Legislative Veto:* None

*Adjudication:* Notwithstanding section 559 of Title 5, with respect to any marine resource conservation law or regulation administered by the Secretary of Commerce acting through the National Oceanic and Atmospheric Administration, all adjudicatory functions which are required by chapter 5 of Title 5 to be performed by an Administrative Law Judge may be performed by another Federal agency on a reimbursable basis.

- Reference: 15 U.S.C. § 1541 (2017)

### **Bureau of Economic Analysis**

*Date of Creation:* January 17, 1946<sup>101</sup>

*Statute:* Not established in U.S. Code

### **Bureau of Industry and Security**

*Date of Creation:* August 17, 2001<sup>102</sup>

*Statute:* Not established in U.S. Code

### **Economic and Statistics Administration**

*Date of Creation:* 1961

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<sup>101</sup> Established as the Office of Business Economics by the Secretary of Commerce. Renamed Bureau of Economic Analysis in 1972.

<sup>102</sup> In 2001, Congress allowed a law enabling the Export Administration (the precursor to the Bureau of Industry and Security) to lapse. Following that lapse, President Bush issued an Executive Order to continue export control regulations. Exec. Order No. 13,222 (2001). In 2002, the office in charge of such regulation was renamed the Bureau of Industry and Security.

*Statute:* Not established in U.S. Code

**Economic Development Administration**

*Date of Creation:* August 26, 1965<sup>103</sup>

*Statute:* 42 U.S.C. §§ 3131-3197 (2017)

*Authorizing Language:* None

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The Secretary shall carry out this chapter through an Assistant Secretary for Economic Development, to be appointed by the President, by and with the advice and consent of the Senate. . . The Assistant Secretary of Commerce for Economic Development shall carry out such duties as the Secretary shall require and shall serve as the administrator of the Economic Development Administration of the Department.

- Reference: 42 U.S.C. § 3191 (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* At the time of the designation under subsection (a) of this section [relating to inability to comply with requirements relating to special impact areas], the Secretary [acting through the Administrator] shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a written notice of the designation, including a justification for the designation.

- Reference: 42 U.S.C. § 3154(c) (2017)
- Not later than 30 days before the date of any reorganization of the offices, programs, or activities of the Economic Development Administration, the Secretary [acting through the Administrator] shall provide notification of the reorganization to the Committee on Environment and Public Works and the Committee on Appropriations of the Senate and the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives.
- Reference: 42 U.S.C. § 3197 (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

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<sup>103</sup> Public Works and Economic Development Act of 1965, Pub. L. No. 89-136, 79 Stat. 552 (1965)

*Adjudication:* None

**International Trade Administration**

*Date of Creation:* January 2, 1980<sup>104</sup>

*Statute:* Not established in U.S. Code

**Minority Business Development Agency**

*Date of Creation:* March 5, 1969<sup>105</sup>

*Statute:* Not established in U.S. Code

**National Institute of Standards and Technology**

*Date of Creation:* March 3, 1901<sup>106</sup>

*Statute:* 7 U.S.C. §§ 271-282a (2017)

*Authorizing Language:* There is established within the Department of Commerce a science, engineering, technology, and measurement laboratory to be known as the National Institute of Standards and Technology.

- Reference: 15 U.S.C. § 272(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* In the case of the absence of the Director of the National Institute of Standards and Technology the Secretary of Commerce may designate some officer of said Institute to perform the duties of the director during his absence.

- Reference: 15 U.S.C. § 279 (2017)

*Who is Head of Agency:* There shall be in the Department of Commerce an Under Secretary of Commerce for Standards and Technology. . . The Under Secretary shall be appointed by the President by and with the advice and consent of the Senate.

- Reference: 15 U.S.C. § 273a (2017)
- The Under Secretary shall serve as the Director of the Institute.
  - Reference: 15 U.S.C. § 273a(d) (2017)
- The Director shall report directly to the Secretary and shall have the general supervision of the Institute, its equipment, and the exercise of its functions.
  - Reference: 15 U.S.C. § 274 (2017)

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<sup>104</sup> Established pursuant to Reorganization Plan No. 3 of 1979.

<sup>105</sup> Originally established as the Office of Minority Business Enterprise. Exec. Order No. 11,625 (1969). Renamed Minority Business Development Agency in 1979. Commerce Secretarial Order D00-254A (Nov. 1, 1979).

<sup>106</sup> National Institute of Standards and Technology Act, 31 Stat. 1449 (1901). Originally, NIST was known as the National Bureau of Standards. In 1988, the agency's name changed to the National Institute of Standards and Technology.

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* In carrying out the functions specified in subsection (b), the Secretary, acting through the Director may, among other things. . . collect and retain any fees charged by the Secretary for hosting a scientific and technical workshop [and] notwithstanding Title 31, use the fees described. . . to pay for any related expenses, including subsistence expenses for participants.

- Reference: 15 U.S.C. § 272(c)(19)-(20) (2017)
- The Secretary shall charge for services performed under the authority of section 273 of this title [exercise of functions for foreign governments, states, and scientific organizations], except in cases where he determines that the interest of the Government would be best served by waiving the charge. Such charges may be based upon fixed prices or costs. The appropriation or fund bearing the cost of the services may be reimbursed, or the Secretary may require advance payment subject to such adjustment on completion of the work as may be agreed upon.
  - Reference: 15 U.S.C. § 275a (2017)
- The Secretary of Commerce shall charge for any service performed by the Institute, at the request of another government agency, in compliance with any statute, enacted before, on, or after October 6, 1982, which names the Secretary or the Institute as consultant to another Government agency, or to cooperate with any Government agency in the performance by that agency of any activity, regardless of whether the statute specifically requires reimbursement to the Secretary or the Institute by such other Government agency for such service, unless funds are specifically appropriated to the Secretary or the Institute to perform such service.
  - Reference: 15 U.S.C. § 275b (2017)
- Fees for calibration services, standard reference, materials, and other comparable services provided by the National Institute of Standards and Technology shall at least be sufficient to meet the requirements set forth in the amendments made by subsection (a) and any funds recovered in excess of such requirements shall be returned to the Treasury of the United States.
  - Reference: 15 U.S.C. § 275c (2017)
- In absence of specific agreement to the contrary, additional facilities, including equipment, purchased pursuant to the performance of services authorized by section 273 of this title [exercise of functions for foreign governments, states, and scientific organizations] shall become the property of the Department of Commerce.
  - Reference: 15 U.S.C. § 276 (2017)
- The Institute is authorized to utilize in the performance of its functions the Working Capital Fund established by the Act of June 29, 1950. . . In performance of authorized activities, the Working Capital Fund shall be available and may be reimbursed for expenses of hire of automobile, hire of consultants, and travel to meetings, to the extent that such expenses are authorized for the appropriations of the Department of Commerce. The fund may be credited with advances and reimbursements, including receipts from non-Federal sources, the services performed under the authority of section 273 of this title [exercise of functions for foreign governments, states, and scientific organizations]. . . The amount of any earned net income resulting from the operation of the fund at the close of each fiscal year shall be paid into the general fund of the Treasury: Provided,

That such earned net income may be applied to restore any prior impairment of the fund, and to ensure the availability of working capital necessary to replace equipment and inventories.

- Reference: 15 U.S.C. § 278b (2017)
- The Director is authorized to retain all building use and depreciation surcharge fees collected pursuant to OMB Circular A-25. Such fees shall be collected and credited to the Construction of Research Facilities Appropriation Account for use in maintenance and repair of the Institutes existing facilities.
  - Reference: 15 U.S.C. § 278d(b) (2017)

*Reporting Requirements:* The National Institute of Standards and Technology shall annually submit to the Congress, at the time of the release of the President's budget, a three year budget estimate for the Institute, including funding estimates for each major account and new initiative.

- Reference: 15 U.S.C. § 272b (2017)
- The Committee [on Advanced Technology] shall render an annual report to the Secretary for submission to the Congress not later than 30 days after the submittal to Congress of the President's annual budget request in each year. Such report shall deal essentially, though not necessarily exclusively, with policy issues or matters which affect the Institute or with which the Committee in its official role as the private sector policy advisor of the Institute is concerned.
  - Reference: 15 U.S.C. § 278(h)(1) (2017)
- The Director shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science annually on the use and responsibility of individuals on assignment at the Institute under the Intergovernmental Personnel Act of 1970 who are performing duties under subsection (d) [relating to research program on security of computer systems].
  - Reference: 15 U.S.C. § 278h(d)(4)
- Changes in policy and fees shall not be effective unless and until the Director has submitted the proposed schedule and justification to the Congress and 30 days on which both Houses of Congress are in session have elapsed since such submission, except that the requirement of this sentence shall not apply with respect to adjustments which are based solely on charges in the costs of raw materials or of producing and delivering standard reference materials or calibration services.
  - Reference: 15 U.S.C. § 278i (2017)
- Not later than 180 days after January 6, 2017, the Secretary [acting through the Director] shall implement and submit to Congress a plan for how the Institute will conduct an evaluation, competition, and reapplication competition under this section [Hollings Manufacturing Extension Partnership].
  - Reference: 15 U.S.C. § 278k(i)
- At a minimum, the MEP Advisory Board shall transmit an annual report to the Secretary for transmittal to Congress not later than 30 days after the submission to Congress of the President's annual budget under section 1105 of Title 31. The report shall address the status of the Program and describe the relevant sections of the programmatic planning document and updates thereto transmitted to Congress by the Director under subsections (c) and (d) of section 278i of this title.
  - Reference: 15 U.S.C. § 278k(m)(5) (2017)

- If any funds authorized for carrying out this chapter are subject to a reprogramming action that requires notice to be provided to the Appropriations Committees of the House of Representatives and the Senate, notice of such action shall concurrently be provided to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.
  - Reference: 15 U.S.C. § 278p(a) (2017)
- The Secretary shall provide notice to the Committees on Science and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate, not later than 15 days before any major reorganization of any program, project, or activity of the Institute.
  - Reference: 15 U.S.C. § 278p(b)(1) (2017)
- Upon completion, the Secretary [acting through the Director] shall transmit the strategic plan required under paragraph (2)(C) [strategic plan to guide the Network for Manufacturing Innovation Program, updated not less frequently than once every 3 years] to the Committee on Commerce, Science and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.
  - Reference: 15 U.S.C. § 278s(f)(4) (2017)
- Not less frequently than once year until December 31, 2024, the Secretary [acting through the Director] shall submit a report to Congress that describes the performance of the Program during the most recent 1-year period.
  - Reference: 15 U.S.C. § 278s(g)(2)(A) (2017)

*Review Commissions:* None

*Advisory Commissions:* There is established within the Institute a Visiting Committee on Advanced Technology. . .the Committee shall review and make recommendations regarding general policy for the Institute, its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and Congress.

- Reference: 15 U.S.C. § 278(a) (2017)
- There is hereby established an Information Security and Privacy Advisory Board. . .The duties of the Board shall be. . .to advise the Institute, the Secretary of Homeland Security, and the Director of the Office of Management and Budget on information security and privacy issues pertaining to Federal Government information systems, including through review of proposed standards and guidelines developed under section 278g-3 of this title.
  - Reference: 15 U.S.C. § 287g-4 (2017)
- There is established within the Institute a Manufacturing Extension Partnership Advisory Board. . .The MEP Advisory Board shall. . .provide to the Director advice on activities, plans, and policies of the Program; assessments of the soundness of the plans and strategies of the Program; and assessments of current performance against the plans of the Program.
  - Reference: 15 U.S.C. § 278k(m) (2017)

*Action Require Outside Approval:* The Institute and the National Academy of Sciences, jointly, shall establish and conduct a post-doctoral fellowship program, subject to the availability of appropriations.

- Reference: 15 U.S.C. § 278g-2(a) (2017)

*Legislative Veto:* None

*Adjudication:* None

## **National Oceanic and Atmospheric Administration**

*Date of Creation:* October 3, 1970<sup>107</sup>

*Statute:* 15 U.S.C. § 1503b (2017); 33 U.S.C. §§ 853-894f (2017); 5 U.S.C.A. Reorg. Plan 4 1970

*Authorizing Language:* There is hereby established in the Department of Commerce an agency which shall be known as the National Oceanic and Atmospheric Administration.

- Reference: U.S.C.A. Reorg. Plan 4 1970 § 2(a)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* The Chief Scientist shall be an individual who is, by reason of scientific education and experience, knowledgeable in the principles of oceanic, atmospheric, or other scientific disciplines important to the work of the Administration.

- Reference: U.S.C.A. Reorg. Plan 4 1970 § 2(d) (2017)
- The Assistant Administrator for Coastal Zone Management shall be an individual who is, by reason of background and experience, especially qualified to direct the implementation and administration of the Coastal Zone Management Act of 1972.
  - Reference: U.S.C.A. Reorg. Plan 4 1970 § 2(e)(3) (2017)
- Any individual appointed as Director [of the Chesapeake Bay Office] shall have knowledge and experience in research or resource management efforts in the Chesapeake Bay.
  - Reference: 15 U.S.C. § 1511d (2017)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* There shall be in the Administration a Deputy Administrator of the National Oceanic and Atmospheric Administration who shall be appointed by the President, by and with the advice and consent of the Senate. . . The Deputy Administrator shall perform such functions as the Administrator shall from time to time assign or delegate, and shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

- Reference: U.S.C.A. Reorg. Plan 4 1970 § 2(c) (2017)

*Who is Head of Agency:* There shall be in the Department of Commerce an Under Secretary for Oceans and Atmosphere who shall serve as the Administrator for the National Oceanic and Atmospheric Administration established by Reorganization Plan No. 4 of 1970 and perform such duties as the Secretary of Commerce shall prescribe. The Under Secretary shall be appointed by the President by and with the advice and consent of the Senate.

- Reference: 15 U.S.C. § 1503b (2017)

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<sup>107</sup> Pursuant to Reorganization Plan No. 4 of 1970.

- There shall be at the head of the Administration the Administrator of the National Oceanic and Atmospheric Administration. . .The Administrator shall be appointed by the President, by and with the advice and consent of the Senate.
  - Reference: U.S.C.A. Reorg. Plan 4 1970 § 2(b) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The Secretary of Commerce is authorized to enter into cooperative agreements, or any other agreements, with, and to receive and expend funds made available by, any State or subdivision thereof, any Federal agency, or any public or private organization, or individual, for surveys or investigations authorized herein, or for performing related surveying and mapping activities, including special-purpose maps, and for the preparation and publication of the results thereof.

- Reference: 33 U.S.C. § 883e (2017)

*Reporting Requirements:* Not later than February 15 of each year, the Under Secretary of Commerce for Oceans and Atmospheric and the Director of the National Science Foundation shall jointly submit to the Committees on Resources and Science of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate a report on how the oceans and coastal research activities of the National Oceanic and Atmospheric Administration, including the Coastal Ocean Program and the National Sea Grant Collect Program, and of the National Science Foundation will be coordinated during the fiscal year following the fiscal year in which the report is submitted.

- Reference: 33 U.S.C. § 857-20 (2017)
- The Under Secretary shall transmit a report describing the basis for the determination required under paragraph (1) [regarding contract for development of major program] to the appropriate congressional committees at least 30 days before entering into a contract for development under a major program.
  - Reference: 33 U.S.C. § 878a(b)(2) (2017)
- Annually, at the same time as the President’s annual budget submission to the Congress, the Under Secretary shall transmit to the appropriate congressional committees a report that includes the information required by this section for the satellite development program for which NOAA proposes to expend funds in the subsequent fiscal year. The report under this paragraph shall be known as the Major Program Annual Report.
  - Reference: 33 U.S.C. § 878a(c)(1) (2017)
- Not later than 30 days after receiving a written notification under subsection (d)(2) [change in program costs], the Under Secretary shall determine whether the development cost of the program has exceeded the estimate provided in the Baseline Report of the program by 20 percent or more. If the determination is affirmative, the Under Secretary shall transmit to the appropriate congressional committees, not later than 15 days after making the determination, a report.
  - Reference: 33 U.S.C. § 878a(e) (2017)
- NOAA shall complete an analysis initiated under (e)(2) not later than 6 months after the Under Secretary makes a determination under subsection (e). The Under Secretary shall transmit the analysis to the appropriate congressional committees not later than 30 days after its completion.
  - Reference: 33 U.S.C. § 878a(f) (2017)

- The Plan required in subsection (a) [modernization plan for NOAA fleet] shall be submitted to Congress within 30 days of October 29, 1992 and updated on an annual basis.
  - Reference: 33 U.S.C. § 891b(b) (2017)
- There is established in the Treasury a separate account, which shall be known as the “Hydrographic Services Account.” The account shall consist of amounts received by the United States as fees charged under subsection (b)(1)(C) and such other amounts as may be provided by law. Amounts in the account shall be available to the Administrator, without further appropriation, for hydrographic services.
  - Reference: 33 U.S.C. § 892b(d) (2017)
- Not later than January 15 of each year, the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives a report on the sexual assaults involving employees of the National Oceanic and Atmospheric Administration, members of the commissioned officer corps of the Administration, and Individuals who work with or conduct business on behalf of the Administration.
  - Reference: 33 U.S.C. § 894e(a) (2017)

*Review Commissions:* None

*Advisory Commissions:* The [National Advisory] Committee [on Oceans and Atmosphere] shall undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States and advise the Secretary of Commerce with respect to the carrying out of the programs administered by the National Oceanic and Atmospheric Administration.

- Reference: 33 U.S.C. § 857-14(d) (2017)
- No later than 1 year after December 19, 2002, the Secretary shall establish the Hydrographic Services Review Panel. The panel shall advise the Administrator on matters related to the responsibilities and authorities set forth in section 892a of this title and such other appropriate matters as the Administrator refers to the panel for review and advice.
  - Reference: 33 U.S.C. § 892c (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **National Technical Information Service**

*Date of Creation:* September 2, 1970

*Statute:* 15 U.S.C. §§ 3701-3724 (2017)

*Authorizing Language:* Not explicitly authorized<sup>108</sup>

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

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<sup>108</sup> 15 U.S.C. § 3704b authorizes the Secretary of Commerce, acting through the Director of the National Technical Information Service to perform the functions and activities of the Service but does not explicitly establish the agency.

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The management of the Service shall be vested in a Director who shall report to the Director of the National Institute of Standards and Technology and the Secretary of Commerce.

- Reference: 15 U.S.C. § 3704b(b) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* Operating costs for the National Technical Information Service associated with the acquisition, processing, storage, bibliographic control, and archiving of information and documents shall be recovered primarily through the collection of fees.

- Reference: 15 U.S.C. § 3704b-1 (2017)

*Reporting Requirements:* The Secretary shall submit an annual report to the Congress which shall summarize the operations of the Service during the preceding year.

- Reference: 15 U.S.C. § 3704b(f)(3) (2017)
- The Secretary shall also give the Congress detailed advance notice of not less than 30 calendar days of any proposed reduction in force, any joint venture or cooperative agreement which involves a financial incentive to the joint venturer or contractor, and any change in the operating plan submitted under paragraph (3)(B) which would result in a variation from such plan with respect to expense levels of more than 10 percent.
- Reference: 15 U.S.C. § 3704b(4) (2017)

*Review Commissions:* None

*Advisory Commissions:* There is established the Advisory Board of the National Technical Information Service. . .The Advisory Board shall review the general policies and operations of the Service, including policies in connection with fees and charges for its services, and shall advise the Secretary and the Director with respect thereto.

- Reference: 15 U.S.C. § 3704b(c) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **National Telecommunications and Information Administration**

*Date of Creation:* March 27, 1978<sup>109</sup>

*Statute:* 47 U.S.C. §§ 901-942 (2017)

*Authorizing Language:* There shall be within the Department of Commerce an administration to be known as the National Telecommunications and Information Administration.

- Reference: 47 U.S.C. § 902(a)(1) (2017)

*Commissioners/Board Members:* None

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<sup>109</sup> Established pursuant to Reorganization Plan No. 1 of 1977 and Exec. Order No. 12,046 (1978).

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The head of the NTIA shall be an Assistant Secretary of Commerce for Communications and Information, who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 47 U.S.C. § 902(a)(2) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* The Secretary may not make any reassignment of a function (or portion thereof) required to be assigned to the NTIA by section 902(b) of this title unless the Secretary submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a statement describing the proposed reassignment and containing an explanation of the reasons for the reassignment. No reassignment of any such function (or portion thereof) shall be effective until 90 legislative days after the Secretary submits that statement to such Committees.

- Reference: 47 U.S.C. § 904(d)(2) (2017)
- If the NTIA determines under paragraph (1) [regarding reallocation for exclusive non-Federal use or shared use] that relocation of a Federal entity from the band is not feasible, the NTIA shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives of the determination, including the specific technical or cost constraints on which the determination is based.
  - Reference: 47 U.S.C. § 923(j)(2) (2017)
- The Assistant Secretary and the Administrator [of the National Highway Traffic Safety Administration] shall provide an annual report to Congress by the first day of October of each year on the activities of the Office to improve coordination and communication with respect to the implementation of 9-1-1 services, E9-1-1 services, and Next Generation 9-1-1 services.
  - Reference: 47 U.S.C. § 942(a)(4) (2017)

*Review Commissions:* None

*Advisory Commissions:* To the extent the Assistant Secretary deems it necessary to continue the Interdepartmental Radio Advisory Committee, such Committee shall serve as an advisory committee to the Assistant Secretary and the NTIA. As permitted by law, the Assistant Secretary may establish one or more telecommunications or information advisory committees (or both) composed of experts in the telecommunications and/or information areas outside the Government.

- Reference: 47 U.S.C. § 904(b) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* The NTIA shall, at the time of providing an initial estimate of relocation or sharing costs to the Commission under paragraph (4)(A) [auction of reallocable frequencies], submit to Committees on Appropriations and Energy and Commerce of the House of Representatives for approval,, to the Committees on Appropriations and Commerce, Science, and Transportation of the Senate for approval, and to the Comptroller General a copy of such estimate and the timelines for relocation or sharing. Unless disapproved within 30 days, the estimate shall be approved. If disapproved, the NTIA may resubmit a revised initial estimate.

- Reference: 47 U.S.C. § 923(g)(5) (2017)

*Adjudication:* None

### **U.S. Census Bureau**

*Date of Creation:* March 6, 1902<sup>110</sup>

*Statute:* 13 U.S.C. §§ 1-402 (2017)

*Authorizing Language:* The Bureau [of the Census] is continued as an agency within, and under the jurisdiction of, the Department of Commerce.

- Reference: 13 U.S.C. § 2 (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* The Secretary may establish, at rates of compensation to be fixed by him without regard to the Classification Act of 1949, as many temporary positions as may be necessary to meet the requirements of the work provided for by law.

- Reference: 13 U.S.C. § 23(a)

*Limitation on Appointment:* Such appointment [Director of the Census] shall be made from individuals who have a demonstrated ability in managing large organizations and experience in the collection, analysis, and use of statistical data.

- Reference: 13 U.S.C. § 21(a)(2) (2017)
- All permanent officers and employees of the Bureau shall be citizens of the United States.
- Reference: 13 U.S.C. § 22 (2017)

*Party Balancing:* N/A

*Fixed Terms:* The term of office of the Director shall be 5 years, and shall begin on January 1, 2012 and every fifth year thereafter. An individual may not serve more than 2 full terms as Director.

- Reference: 13 U.S.C. § 21(b)(1) (2017)

*Staggered Terms:* N/A

*For Cause:* None

*Serve President:* An individual serving as Director may be removed from office by the President. The President shall communicate in writing the reasons for any such removal to both Houses of Congress not later than 60 days before the removal.

- Reference: 13 U.S.C. § 21(b)(3) (2017)

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<sup>110</sup> Permanent Census Act, Pub. L. No. 27, 31 Stat. 51 (1902).

*Continuation until Replacement:* The Director may serve after the end of the Director's term until reappointed or until a successor has been appointed, but in no event longer than 1 year after the end of such term.

- Reference: 13 U.S.C. § 21(b)(2) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* The Bureau shall be headed by a Director of the Census, appointed by the President, by and with the advice and consent of the Senate.

- Reference: 13 U.S.C. § 21(a)(1) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **United States Patent and Trademark Office**

*Date of Creation:* February 21, 1793<sup>111</sup>

*Statute:* 35 U.S.C. §§ 1-42 (2017)

*Authorizing Language:* The United States Patent and Trademark Office is established as an agency of the United States, within the Department of Commerce.

- Reference: 35 U.S.C. § 1(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* The Secretary of Commerce shall appoint a Commissioner for Patents and a Commissioner for Trademarks, without regard to chapter 33, 51, or 53 of title 5.

- Reference: 35 U.S.C. § 3(b)(2)(A) (2017)

*Limitation on Appointment:* The Director. . . shall be a citizen of the United States. . . who has a professional background and experience in patent or trademark law.

- Reference: 35 U.S.C § 3(a)(1) (2017)
- The Deputy Director shall be a citizen of the United States who has a professional background and experience in patent or trademark law.
  - Reference: 35 U.S.C. § 3(b)(1) (2017)
- The Commissioner for Patents shall be a citizen of the United States with demonstrated management ability and professional background and experience in patent law.
  - Reference: 35 U.S.C. § 3(b)(2)(A) (2017)
- The Commissioner for Trademarks shall be a citizen of the United States with demonstrated management ability and professional background and experience in trademark law.

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<sup>111</sup> The first patent registration system was established under the Secretary of State in 1793. 1 Stat. 318 (1793). The first bureau was established in October, 1802, which was reorganized by Congress in 1836. 5. Stat. 117 (1836). The Patent and Trademark Office was transferred to the Department of Commerce in 1927. Exec. Order No. 4,175 (1925).

- Reference: 35 U.S.C. § 3(b)(2)(A) (2017)
- Officers and employees of the Patent and Trademark Office shall be incapable, during the period of their appointments and for one year thereafter, of applying for a patent and of acquiring, directly or indirectly, except by inheritance or bequest, any patent or any right or interest in any patent, issued or to be issued by the Office. In patents applied for thereafter they shall not be entitled to any priority date earlier than one year after the termination of their appointment.
  - Reference: 35 U.S.C. § 4 (2017)
- The administrative patent judges shall be persons of competent legal knowledge and scientific ability.
  - Reference: 35 U.S.C. § 6(a) (2017)

*Party Balancing:* N/A

*Fixed Terms:* The Commissioner for Patents shall . . .serve for a term of 5 years.

- Reference: 35 U.S.C. § 3(b)(2)(A) (2017)
- The Commissioner for Trademarks shall . . .serve for a term of 5 years.
  - Reference: 35 U.S.C. § 3(b)(2)(A) (2017)
- The Secretary may reappoint a Commissioner to subsequent terms of 5 years as long as the performance of the Commissioner. . .is satisfactory.
  - Reference: 35 U.S.C. § 3(b)(2)(A) (2017)

*Staggered Terms:* N/A

*For Cause:* None

*Serve President:* The Director may be removed from office by the President. The President shall provide notification of any such removal to both Houses of Congress.

- Reference: 35 U.S.C. § 3(a)(4) (2017)

*Continuation until Replacement:* None

*Acting Service Rules:* The Secretary of Commerce, upon nomination by the Director, shall appoint a Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office who shall be vested with the authority to act in the capacity of the Director in the event of the absence or incapacity of the director.

- Reference: 35 U.S.C. § 3(b)(1) (2017)

*Who is Head of Agency:* The powers and duties of the United States Patent and Trademark Office shall be vested in an Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office. . .who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 35 U.S.C. § 3(a)(1) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The Office. . .may retain and use all of its revenues and receipts, including revenues from the sale, lease, or disposal of any real, personal, or mixed property, or any interest therein of the Office.

- Reference: 35 U.S.C. § 2(b)(7) (2017)
- The Director shall charge the following fees: Filing and basic national fees. . .Excess claims fees. . .Examination fees. . .Issue fees. . .Disclaimer fee. . .Appeal fees. . .Revival fees. . .Extension fees. . .Maintenance fees. . .Patent search and other fees.

- Reference: 35 U.S.C. § 41 (2017)
- All fees paid to the Director and all appropriations for defraying the costs of the activities of the Patent and Trademark Office will be credited to the Patent and Trademark Appropriation Account in the Treasury of the United States. The extent and in the amounts provided in advance in appropriations Acts, fees authorized in this title or any other Act to be charged or established by the Director shall be collected by and shall, subject to paragraph 3, be available to the Director to carry out the activities of the Patent and Trademark Office. . . Any fees that are collected under this title, and any surcharges on such fees, may only be used for expenses of the Office relating to the processing of patent applications and for other activities, services, and materials relating to patents and to cover a proportionate share of the administrative costs of the Office. Any fees that are collected under section 31 of the Trademark Act of 1946, and any surcharges on such fees, may only be used for expenses of the Office relating to the processing of trademark registrations and for other activities, services, and materials relating to trademarks and to cover a proportionate share of the administrative costs of the Office.
  - Reference: 35 U.S.C. § 42(b)-(c) (2017)
- There is established in the Treasury a Patent and Trademark Fee Reserve Fund. If fee collections by the Patent and Trademark Office for a fiscal year exceed the amount appropriated to the Office for that fiscal year, fees collected in excess of the appropriated amount shall be deposited in the Patent and Trademark Fee Reserve Fund. To the extent and in the amounts provided in appropriations Acts, amounts in the Fund shall be made available until expended only for obligation and expenditure by the Office in accordance with paragraph (3).
  - Reference: 35 U.S.C. § 42(c)(2)

*Reporting Requirements:* The Office shall submit to the Congress a proposal to provide an incentive program to retain as employees patent and trademark examiners of the primary examiner grade or higher who are eligible for retirement, for the sole purpose of training patent and trademark examiners.

- Reference: 35 U.S.C. § 3(b)(4) (2017)
- The Director shall report to the Congress, not later than 180 days after the end of each fiscal year, the moneys received and expended by the Office, the purposes for which the moneys were spent, the quality and quantity of the work of the Office, the nature of training provided to examiners, the evaluation of the Commissioner of Patents and the Commissioner of Trademarks by the Secretary of Commerce, the compensation of the Commissioners, and other information relating to the Office.
  - Reference: 35 U.S.C. § 13 (2017)
- The Director shall submit to the Congress an annual report on the automated search systems of the Patent and Trademark Office and the access by the public to such systems.
  - Reference: 35 U.S.C. § 41(i)(4) (2017)
- The Secretary of Commerce shall, on the day each year on which the President submits the annual budget to the Congress, provide to the Committees on the Judiciary of the Senate and the House of Representatives a list of patent and trademark fee collections by the Patent and Trademark Office during the preceding fiscal year; a list of the activities of the Patent and Trademark Office during the preceding fiscal year which were supported by patent fee expenditures, trademark fee expenditures, and appropriations; budget plans for significant programs, projects, and activities of the Office, including out-year funding

estimates; any proposed disposition of surplus fees by the Office; and such other information as the committees consider necessary.

- Reference: 35 U.S.C. § 42(e) (2017)

*Review Commissions:* None

*Advisory Commissions:* The Director shall consult with the Patent Public Advisory Committee established in section 5 on a regular basis on matters relating to the patent operations of the Office, shall consult with the Trademark Public Advisory Committee established in section 5 on a regular basis on matters relating to the trademark operations of the Office, and shall consult with the respective Public Advisory Committee before submitting budgetary proposals to the Office of Management and Budget or changing or proposing to change patent or trademark user fees or patent or trademark regulations which are subject to the requirements to provide notice and opportunity for public comment under section 553 of title 5 as the case may be.

- Reference: 35 U.S.C. § 3(a)(2)(B) (2017)

*Action Require Outside Approval:* The Office. . .with the concurrence of the Secretary of State, may authorize the transfer of not to exceed \$100,000 in any year to the Department of State for the purpose of making special payments to international intergovernmental organizations for studies and programs for advancing international cooperation concerning patents, trademarks, and other matters.

- Reference: 35 U.S.C. § 2(b)(13)(B) (2017)

*Legislative Veto:* None

*Adjudication:*<sup>112</sup> The Director may fix the rate of basic pay for the administrative patent judges appointed pursuant to section 6 and the administrative trademark judges appointed pursuant to section 17 of the Trademark Act of 1946.

- Reference: 35 U.S.C. § 3(b)(6) (2017)
- There shall be in the Office a Patent Trial and Appeal Board. The Director, the Deputy Director, the Commissioner for Patents, the Commissioner for Trademarks, and the administrative patent judges shall constitute the Patent Trial and Appeal Board.
  - Reference: 35 U.S.C. § 6 (2017)
- The clerk of any United States court for the district wherein testimony is to be taken for use in any contested case in the Patent and Trademark Office, shall, upon the application of any party thereto, issue a subpoena for any witness residing or being within such district, commanding him to appear and testify before an officer in such district authorized to take depositions and affidavits, at the time and place stated in the subpoena. The provisions of the Federal Rules of Civil Procedure relating to the attendance of witnesses and to the production of documents and things shall apply to contested cases in the Patent and Trademark Office.
  - Reference: 35 U.S.C. § 24 (2017)

## **DEPARTMENT OF DEFENSE**

*Date of Creation:* August 7, 1789<sup>113</sup>

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<sup>112</sup> Employs administrative law judges. Association of Administrative Law Judges. “Agencies Employing Administrative Law Judges,” <http://www.aalj.org/agencies-employing-administrative-law-judges> (accessed October 30, 2017).

<sup>113</sup> 1 Stat. 49 (1789).

*Statute:* 10 U.S.C. §§ 101-498 (2017)

*Authorizing Language:* The Department of Defense is an executive department of the United States.

- Reference: 10 U.S.C. § 111(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* There is a Secretary of Defense, . . . appointed from civilian life. . . A person may not be appointed as Secretary of Defense within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.

- Reference: 10 U.S.C. § 113(a) (2017)
- There is a Deputy Secretary of Defense, appointed from civilian life. . . The Deputy Secretary shall be appointed from among persons most highly qualified for the position by reason of background and experience, including persons with appropriate management experience. A person may not be appointed as Deputy Secretary of Defense within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.
  - Reference: 10 U.S.C. § 132(a) (2017)
- There is an Under Secretary of Defense for Acquisition, Technology, and Logistics, appointed from civilian life. . . The Under Secretary shall be appointed from among persons who have an extensive management background.
  - Reference: 10 U.S.C. § 133(a) (2017)
- There is an Under Secretary of Defense for Policy, appointed from civilian life. . . A person may not be appointed as Under Secretary within seven years after relief from active duty as a commissioned officer of a regular component of an armed force.
  - Reference: 10 U.S.C. § 134(a) (2017)
- There is an Under Secretary of Defense (Comptroller), appointed from civilian life.
  - Reference: 10 U.S.C. § 135(a) (2017)
- There is an Under Secretary of Defense for Personnel and Readiness, appointed from civilian life.
  - Reference: 10 U.S.C. § 136(a) (2017)
- There is an Under Secretary of Defense for Intelligence, appointed from civilian life.
  - Reference: 10 U.S.C. § 137(a) (2017)
- The [five] Principal Deputy Under Secretaries of Defense shall be appointed from civilian life.
  - Reference: 10 U.S.C. § 137a(a)(2) (2017)
- The [14] Principal Assistant Secretaries of Defense shall be appointed from civilian life.
  - Reference: 10 U.S.C. § 138(a)(2) (2017)
- There is a Director of Operational Test and Evaluation in the Department of Defense, appointed from civilian life. . . The Director shall be appointed without regard to political affiliation and solely on the basis of fitness to perform the duties of the office of the Director.
  - Reference: 10 U.S.C. § 139(a)(1) (2017)
- There is a General Counsel of the Department of Defense, appointed from civilian life.
  - Reference: 10 U.S.C. § 140(a) (2017)

- There is a Chairman of the Joint Chiefs of Staff, appointed. . .from the officers of the regular components of the armed forces. . .The President may appoint an officer as Chairman of the Joint Chiefs of Staff only if the officer has served as the Vice Chairman of the Joint Chiefs of Staff; the Chief of Staff or the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, or the Commandant of the Marine Corps; or the commander of a unified or specified combatant command. The President may waive paragraph (1) in the case of an officer if the President determines such action is necessary in the national interest.
  - Reference: 10 U.S.C. § 152 (2017)
- There is a Vice Chairman of the Joint Chiefs of Staff, appointed. . .from the officers of the regular components of the armed forces. The Chairman and Vice Chairman may not be members of the same armed force. However, the President may waive the restriction in the preceding sentence for a limited period of time in order to provide for the orderly transition of officers appointed to serve in the positions of Chairman and Vice Chairman. . .The President may appoint an officer as Vice Chairman of the Joint Chiefs of Staff only if the officer has the joint specialty under section 661 of this title and has completed a full tour of duty in a joint duty assignment (as defined in section 664(f) of this title) as a general or flag officer. The President may waive paragraph (1) in the case of an officer if the President determines such action is necessary in the national interest.
  - Reference: 10 U.S.C. § 154 (2017)
- The President may assign an officer to serve as the commander of a unified or specified combatant command only if the officer has the joint specialty under section 661 of this title and has completed a full tour of duty in a joint duty assignment (as defined in section 664(f) of this title) as a general or flag officer. The President may waive paragraph (1) in the case of an officer if the President determines that such action is necessary in the national interest.
  - Reference: 10 U.S.C. § 164(a) (2017)
- The [Department of Defense] Board [of Actuaries] shall consist of three members who shall be appointed. . .from among qualified professional actuaries who are members of the Society of Actuaries.
  - Reference: 10 U.S.C. § 183(a) (2017)
- At the head of the [Department of Test Resource Management] Center, there shall be a Director, selected. . .from among individuals who have substantial experience in the field of test and evaluation. There shall be a Deputy Director of the Center, selected. . .from among individuals who have substantial experience in the field of test and evaluation.
  - Reference: 10 U.S.C. § 196(b) (2017)
- The Under Secretary of Defense for Intelligence shall designate a civilian employee of the Department or a member of the armed forces to serve as the Tactical Exploitation of National Capabilities Executive Agent.
  - Reference: 10 U.S.C. § 430(a) (2017)

*Party Balancing:* N/A

*Fixed Terms:* The Chairman [of the Joint Chiefs of Staff] serves at the pleasure of the President for a term of two years, beginning on October 1 of odd-numbered years. Subject to paragraph (3) [limiting a combined period of service to 6 years], an officer serving as Chairman may be reappointed in the same manner for two additional terms. However, in time of war there is no limit on the number of reappointments.

- Reference: 10 U.S.C. § 152(a)(1) (2017)
- The Vice Chairman serves at the pleasure of the President for a term of two years and may be reappointed in the same manner for two additional terms.. However, in time of war there is no limit on the number of reappointments.
  - Reference: 10 U.S.C. § 154(a)(3) (2017)
- The members of the [Department of Defense] Board [of Actuaries] shall serve for a term of 15 years.
  - Reference: 10 U.S.C. § 183(b)(2) (2017)

*Staggered Terms:* N/A

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* The Deputy Secretary shall act for, and exercise the powers of, the Secretary when the Secretary dies, resigns, or is otherwise unable to perform the functions and duties of the office.

- Reference: 10 U.S.C. § 132(b) (2017)

*Who is Head of Agency:* There is a Secretary of Defense, who is the head of the Department of Defense, appointed. . .by the President, by and with the advice and consent of the Senate.

- Reference: 10 U.S.C. § 113(a) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* Notwithstanding section 37(a) of the Arms Export Control Act, amounts received by the United States pursuant to subparagraph (A) of section 21(a)(1) of that Act shall be credited to the Special Defense Acquisition Fund established pursuant to chapter 5 of that Act, as authorized by section 51(b)(1) of that Act, but subject to the limitations in paragraphs (1) and (3) and other applicable law. . .Of the amount available in the Special Defense Acquisition Fund in any fiscal year after fiscal year 2016, \$500,000,000 may be used in such fiscal year only to procure and stock precision guided munitions that may be required by partner and allied forces to enhance the effectiveness of current or future contributions of such forces to overseas contingency operations conducted or supported by the United States.

- Reference: 10 U.S.C. § 114(c) (2017)
- From funds made available in any fiscal year for the budget account in the Department of Defense known as the “Combatant Commander Initiative Fund,” the Chairman of the Joint Chiefs of Staff may provide funds to the commander of a combatant command, upon the request of the commander, or, with respect to a geographic area or areas not within the area of responsibility of a commander of a combatant command, to an officer designated by the Chairman of the Joint Chiefs of Staff for such purpose. The Chairman may provide such funds for any of the activities named in subsection (b) [force training; contingencies; selected operations; command and control; joint exercises; humanitarian and civic assistance; military education and training to military and related civilian personnel of foreign countries; personnel expenses of defense personnel for bilateral or regional cooperation programs; for protection; joint warfighting capabilities]. . .Any amount provided by the Chairman of the Joint Chiefs of Staff during any fiscal year out of the Combatant Commander Initiative Fund for an activity referred to in subsection (b) shall be in addition to amounts otherwise available for that activity for that fiscal year.

- Reference: 10 U.S.C. § 166a (2017)
- From funds made available in any fiscal year for the budget account in the Department of Defense known as the “Combating Terrorism Readiness Initiatives Fund,” the Chairman of the Joint Chiefs of Staff may provide funds to the commander of a combatant command, upon the request of the commander, or, with respect to a geographic area or areas not within the area of responsibility of a commander of a combatant command, to an officer designated by the Chairman of the Joint Chiefs of Staff for such purpose. The Chairman may provide such funds for any of the activities named in subsection (b) [procurement and maintenance of physical security equipment; improvement of physical security sites; and some extraordinary circumstances]. . . Any amount provided by the Chairman of the Joint Chiefs of Staff during any fiscal year out of Combating Terrorism Readiness Initiatives Fund for an activity referred to in subsection (b) shall be in addition to amounts otherwise available for that activity for that fiscal year.
  - Reference: 10 U.S.C. § 166b (2017)
- The Secretary of Defense may accept, on behalf of the Center [for Excellence in Disaster Management and Humanitarian Assistance], donations to be used to defray the costs of Center or to enhance the operation of the Center. . .Funds accepted by the Secretary. . .as a donation on behalf of the Center shall be credited to appropriations available to the Department of Defense for the Center. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Center for the same purposes and the same period as the appropriations with which merged.
  - Reference: 10 U.S.C. § 182(d) (2017)
- The Secretary of Defense may charge fees for providing information in the Federal Logistics Information System through Defense Information Services to a department or agency of the executive branch outside the Department of Defense, or to a State, a political subdivision of a State, or any person. . .Fees collected under this section shall be credited to the appropriation available for Defense Logistics Information Services for the fiscal year in which collected, shall be merged with other sums in such appropriation, and shall be available for the same purpose and period as the appropriation with which merged.
  - Reference: 10 U.S.C. § 197 (2017)
- Subject to subsection (c) [reimbursement waivers], the Secretary of Defense shall require a Federal agency to which law enforcement support or support to a national special security event is provided by National Guard personnel performing duty under section 502(f) of title 32 to reimburse the Department of Defense for the costs of that support, notwithstanding any other provision of law. . .Any funds received by the Department of Defense under this subsection as reimbursement for support provided by personnel of the National Guard shall be credited, at the election of the Secretary of Defense, to the following: the appropriation, fund, or account used to fund the support; the appropriation, fund, or account currently available for reimbursement purposes.
  - Reference: 10 U.S.C. § 277(b) (2017)
- Funds accepted for the payment of costs [for participation in activities of a Regional Center for Security Studies] shall be credited to the appropriation then currently available to the Department of Defense for the Regional Center that incurred the costs. Funds so credited shall be merged with the appropriation to which credited and shall be available

to that Regional Center for the same purposes and same period as the appropriation with which merged.

- Reference: 10 U.S.C. § 342(f)(4) (2017)
- The Secretary of Defense may, on behalf of the [Western Hemisphere] Institute [for Security Cooperation], accept foreign gifts or donations in order to defray the costs of, or enhance the operation of, the Institute.. Funds received by the Secretary under paragraph (1) shall be credited to appropriations available for the Department of Defense for the Institute. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Institute for the same purposes and same period as the appropriations with which merged.
  - Reference: 10 U.S.C. § 343(f) (2017)
- The Secretary of Defense may accept from any source specified in paragraph (2) any gift or donation for purposes of defraying the costs or enhancing the operations of the Center [for Complex Operations]. . .Funds transferred to or accepted by the Secretary of Defense under this section shall be credited to appropriations available to the Department of Defense for the Center, and shall be available for the same purposes, and subject to the same conditions and limitation, as the appropriations with which merged. Any funds so transferred or accepted shall remain available until expended.
  - Reference: 10 U.S.C. § 409(e)-(f) (2017)
- The Secretary of Defense may accept from any source specified in paragraph (2) any gift or donation for purposes of defraying the costs or enhancing the operations of the [Conflict Records Research] Center. . .Funds transferred to or accepted by the Secretary of Defense under this section shall be credited to appropriations available to the Department of Defense for the Center, and shall be available for the same purposes, and subject to the same conditions and limitations, as the appropriations with which merged. Any funds so transferred or accepted shall remain available until expended.
  - Reference: 10 U.S.C. § 427(e)-(f) (2017)
- Funds generated by a commercial activity authorized pursuant to this subchapter [intelligence commercial activities] may be used to offset necessary and reasonable expenses arising from that activity. Use of such funds for that purpose shall be kept to the minimum necessary to conduct the activity concerned in a secure manner. Any funds generated by the activity in excess of those required for that purpose shall be deposited, as often as may be practicable, into the Treasury as miscellaneous receipts.
  - Reference: 10 US.C. § 432(a) (2017)

*Reporting Requirements:* The Secretary shall report annually in writing to the President and the Congress on the expenditures, work, and accomplishments of the Department of Defense during the period covered by the report, together with a report from each military department on the expenditures, work, and accomplishments of that department; itemized statements showing the savings of public funds, and the eliminations of unnecessary duplications made under sections 125 and 191 of this title; and such recommendations as he considers appropriate.

- Reference: 10 U.S.C. § 113(c)(1) (2017)
- At the same time that the Secretary submits the annual report. . .the Secretary shall transmit to the President and Congress a separate report from the Reserve Forces Policy Board on any reserve component matter that the Reserve Forces Policy Board considers appropriate to include in the report.

- Reference: 10 U.S.C. § 113(c)(2) (2017)
- In February of each year in which the Secretary does not submit a new defense strategy as required by paragraph (A), the Secretary shall submit to the congressional defense committees an assessment of the current national defense strategy, including an assessment of the implementation of the strategy by the Department and an assessment of whether the strategy requires revision as a result of changes in assumptions, policy, or other factors.
  - Reference: 10 U.S.C. § 113(g)(1)(F) (2017)
- Not later than February 15 in any calendar year in which any written guidance is required pursuant to paragraph (2) or (3) [regarding national defense strategy], the Secretary shall provide to the congressional defense committees a detailed classified briefing summarizing such guidance pursuant to such paragraphs.
  - Reference: 10 U.S.C. § 113(g)(4) (2017)
- The Secretary of Defense shall transmit to Congress each year a report that contains a comprehensive net assessment of the defense capabilities and programs of the armed forces of the United States and its allies as compared with those of their potential adversaries.
  - Reference: 10 U.S.C. § 113(i)(1) (2017)
- Not later than April 8 of each year, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives a report on the cost of stationing United States forces outside of the United States.
  - Reference: 10 U.S.C. § 113(j)(1) (2017)
- Whenever the President submits to Congress a request for appropriations for costs associated with a contingency operation that involves, or likely will involve, the deployment of more than 500 members of the armed forces, the Secretary of Defense shall submit to Congress a report on the objectives of the operation.
  - Reference: 10 U.S.C. § 113(m) (2017)
- The Secretary of Defense shall transmit to Congress the annual defense authorization request for a fiscal year during the first 30 days after the date on which the President transmits to Congress the budget for that fiscal year pursuant to section 1105 of title 31.
  - Reference: 10 U.S.C. § 113a(a) (2017)
- Whenever the Secretary establishes an end-of-quarter strength level under subparagraph (A) of paragraph (2), or modifies a strength level under the authority provided in subparagraph (B) of paragraph (2), the Secretary shall notify the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives of that strength level or of that modification, as the case may be.
  - Reference: 10 U.S.C. § 113(e)(3) (2017)
- The Secretary of Defense shall submit to Congress an annual defense manpower requirements report. The report, which shall be in writing, shall be submitted each year not later than 45 days after the date on which the President submits to Congress the budget for the next fiscal year under section 1105 of title 31.
  - Reference: 10 U.S.C. § 115a(a) (2017)

- The Secretary of Defense shall submit to Congress a written report, not later than February 15 of each fiscal year, with respect to the operations and maintenance of the Army, Navy, Air Force, and Marine Corps for the next fiscal year.
  - Reference: 10 U.S.C. § 116(a)(1) (2017)
- The Secretary shall each quarter submit to the congressional defense committees a report in writing containing the results of the most recent joint readiness review under subsection (d)(1)(A), including the current information derived from the readiness reporting system.
  - Reference: 10 U.S.C. § 117(e) (2017)
- The Secretary shall submit a report on each quadrennial quality of life review to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.
  - Reference: 10 U.S.C. § 118a(d) (2017)
- Not later than March 1 of each year, the Secretary of Defense shall submit to the defense committees a report on special access programs.
  - Reference: 10 U.S.C. § 119(a)(1) (2017)
- Not later than February 1 of each year, the Secretary of Defense shall submit to the defense committees a report that, with respect to each new special access program, provides notice of the designation of the program as a special access program and justification for such designation.
  - Reference: 10 U.S.C. § 119(b)(1) (2017)
- Whenever a change in the classification of a special access program of the Department of Defense is planned to be made or whenever classified information concerning a special access program of the Department of Defense is to be declassified and made public, the Secretary of Defense shall submit to the defense committees a report containing a description of the proposed change, the reasons for the proposed change, and notice of any public announcement planned to be made with respect to the proposed change.
  - Reference: 10 U.S.C. § 119(c)(1) (2017)
- Whenever there is a modification or termination of the policy and criteria used for designating a program of the Department of Defense as a special access program, the Secretary of Defense shall promptly notify the defense committees of such modification or termination.
  - Reference: 10 U.S.C. § 119(d) (2017)
- Not later than March 1 each year, the Secretary of Defense shall submit to the congressional defense committees a report on the programs being managed under alternative compensatory control measures in the Department of Defense.
  - Reference: 10 U.S.C. § 119a(a) (2017)
- Not later than February 1 each year, the Secretary shall submit to the congressional defense committees a report that, with respect to each new program being managed under alternative compensatory control measures in the Department provides notice of the designation of the program as a program being managed under alternative compensatory control measures in the Department and a justification for each such designation.
  - Reference: 10 U.S.C. § 119a(b) (2017)
- Whenever a change in the classification of a program being managed under alternative compensatory control measures in the Department is planned to be made, or whenever

classified information concerning a program being managed under alternative compensatory control measures in the Department is to be declassified and made public, the Secretary shall submit to the congressional defense committees a report containing a description of the proposed change, the reasons for the proposed change, and notice of any public announcement planned to be made with respect to the proposed change.

- Reference: 10 U.S.C. § 119a(c)(1) (2017)
- Whenever there is a modification or termination of the policy or criteria used for designating a program as a program being managed under alternative compensatory control measures in the Department, the Secretary shall promptly notify the defense committees of such modification or termination and, in the case of modification, the provisions of the policy or criteria as modified.
  - Reference: 10 U.S.C. § 119a(d) (2017)
- If the Secretary determines that waiting for the regular notification process before initiating a program as described in paragraph (1) [under alternative compensatory control measures] would cause exceptionally grave damage to the national security, the Secretary may begin a program to be managed under alternative compensatory control measures in the Department before such waiting period elapses. The Secretary shall notify the congressional defense committees within 10 days of initiating a program under this paragraph, including a justification for the determination of the Secretary that waiting for the regular notification process would cause exceptionally grave damage to the national security.
  - Reference: 10 U.S.C. § 119a(f)(2) (2017)
- Funds may not be obligated or expended in an amount in excess of \$500,000 under the authority of subsection (a) or (b) [emergency and extraordinary expenses] until the Secretary of Defense has notified the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives of the intent to obligate or expend the funds and in the case of an obligation or expenditures in excess of \$1,000,000, 15 days have elapsed since the date of the notification or in the case of an obligation or expenditures in excess of \$500,000, but not in excess of \$1,000,000, 5 days have elapsed since the date of the notification.
  - Reference: 10 U.S.C. § 127(c)(1) (2017)
- Not later than December 1 each year, the Secretary of Defense shall submit to the congressional defense committees a report on expenditures during the preceding fiscal year under subsections (a) and (b) [emergency and extraordinary expenditures].
  - Reference: 10 U.S.C. § 127(d) (2017)
- The Secretary of Defense shall prescribe policies and procedures for making rewards in the manner described in subparagraph (A) [DOD rewards program], which shall include guidance for the accountability of funds used for making rewards in that manner.. The policies and procedures shall not take effect until 30 days after the date on which the Secretary submits the policies and procedures to the congressional defense committees. Rewards may not be made in the manner described in subparagraph (A) except under policies and procedures that have taken effect.
  - Reference: 10 U.S.C. § 127b(c)(3)(B) (2017)
- Not later than February 1 of each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report

on the administration of the rewards program under this section during the preceding fiscal year.

- Reference: 10 U.S.C. § 127b(f) (2017)
- Not later than 15 days after the date on which the Secretary designates a country as a country in which an operation or activity of the armed forces is occurring in connection with which rewards may be paid under this section, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the designation.
  - Reference: 10 U.S.C. § 127b(h) (2017)
- In any case in which the authority provided in subsection (a) [purchase of weapons overseas] is used during the period of the first six months of a fiscal year, or during the period of the second six months of a fiscal year, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and Committee on Armed Services of the House of Representatives a report on the use of that authority during that six-month period.
  - Reference: 10 U.S.C. § 127c(c) (2017)
- The authority in this section [support of special operations to combat terrorism] shall be exercised in accordance with such procedures as the Secretary shall establish for purposes of this section. The Secretary shall notify the congressional defense committees of any material modification of such procedures.
  - Reference: 10 U.S.C. § 127e(c) (2017)
- Not later than 15 days before exercising the authority in this section to make funds available to initiate support of an approved military operation or changing the scope or funding level of any support for such an operation by \$1,000,000 or an amount equal to 20 percent of such funding level (whichever is less), or not later than 48 hours after exercising such authority if the Secretary determines that extraordinary circumstances that impact the national security of the United States exist, the Secretary shall notify the congressional defense committees of the use of such authority with respect to that operation. Any such notification shall be in writing.
  - Reference: 10 U.S.C. § 127e(d) (2017)
- Not later than March 1 each year, the Secretary shall submit to the congressional defense committees a report on the support provided under this section [special operations to combat terrorism] during the preceding calendar year.
  - Reference: 10 U.S.C. § 127e(g)(1) (2017)
- Not later than September 1 each year, the Secretary shall submit to the congressional defense committees a report on the support provided under this section [special operations to combat terrorism] during the first half of the calendar year in which the report is submitted.
  - Reference: 10 U.S.C. § 127e(g)(2) (2017)
- Not later than February 1 of each year the Secretary of Defense shall submit to the congressional defense committees a report on the management of the civilian workforce of the Office of the Secretary of Defense and the Defense Agencies and Field Activities and the Secretary of each military department shall submit to the congressional defense committees a report on the management of the civilian workforce under the jurisdiction of such Secretary.
  - Reference: 10 U.S.C. § 129(c) (2017)

- A certification referred to in subsection (a) with respect to reductions in medical personnel of the Department of Defense for any fiscal year is a certification by the Secretary of Defense to Congress that the number of medical personnel being reduced is excess to the current and projected needs of the Department of Defense and such reduction will not result in an increase in the cost of health care services provided under the Civilian Health and Medical Program of the Uniformed Services under chapter 55 of this title.
  - Reference: 10 U.S.C. § 129c(c) (2017)
- The Secretary of Defense shall promptly submit to the congressional defense committees notice in writing of any sensitive military operation conducted under this title no later than 48 hours following such operation.
  - Reference: 10 U.S.C. § 130f(a) (2017)
- The Secretary of Defense shall establish and submit to the congressional defense committees procedures for complying with the requirements of subsection (a) consistent with the national security of the United States and the protection of operational integrity. The Secretary shall promptly notify the congressional defense committees in writing of any changes to such procedures at least 14 days prior to the adoption of any such changes.
  - Reference: 10 U.S.C. § 130f(b)(1) (2017)
- In the event of an unauthorized disclosure of a sensitive military operation covered by this section, the Secretary shall ensure, to the maximum extent practicable, that the congressional defense committees are notified immediately of the sensitive military operation concerned. The notification under this paragraph may be verbal or written, but in the event of a verbal notification a written notification shall be provided by not later than 48 hours after the provision of the verbal notification.
  - Reference: 10 U.S.C. § 130f(b)(3) (2017)
- The Secretary of Defense shall periodically brief the congressional defense committees on Department of Defense personnel and equipment assigned to sensitive military operations, including Department of Defense support to such operations conducted under the National Security Act of 1947.
  - Reference: 10 U.S.C. § 130f(c) (2017)
- The Under Secretary of Defense (Comptroller) shall ensure that each of the congressional defense committees is informed, in a timely manner, regarding all matters relating to the budgetary, fiscal, and analytic activities of the Department of Defense that are under the supervision of the Under Secretary of Defense (Comptroller).
  - Reference: 10 U.S.C. § 135(e) (2017)
- The Director [of Operational Test and Evaluation] shall prepare an annual report summarizing the operational test and evaluation activities (including live fire testing activities) of the Department of Defense during the preceding fiscal year. Each such report shall be submitted concurrently to the Secretary of Defense, the Under Secretary of Defense for Acquisition, Technology, and Logistics, the Secretaries of the military departments, and the Congress not later than January 31 of each year, through January 31, 2021.
  - Reference: 10 U.S.C. § 139(h) (2017)
- Not later than February 15 of each even-numbered year, the Chairman shall, through the Secretary of Defense, submit to the Committees on Armed Services of the Senate and the

House of Representatives the National Military Strategy or update, if any, prepared under paragraph (1) in such year.

- Reference: 10 U.S.C. § 153(b)(3)(A) (2017)
- Not later than February 15 of each year, the Chairman shall, through the Secretary of Defense, submit to the Committees on Armed Services of the Senate and the House of Representatives the Risk Assessment prepared under paragraph (1) in such year.
  - Reference: 10 U.S.C. § 153(b)(3)(B) (2017)
- Not later than 25 days after the date on which the budget of the President for a fiscal year is submitted to Congress pursuant to section 1105(a) of title 31, the Chairman shall submit to the congressional defense committees a report on the requirements of the combatant commands established under section 161 of this title.
  - Reference: 10 U.S.C. § 153(c)(2) (2017)
- During the period preceding January 31, 2021, at the same time each year that the budget of the President is submitted to Congress pursuant to section 1105(a) of title 31, and from time to time after such period at the discretion of the Council, the Council shall submit to the congressional defense committees a report on the activities of the Council [on Oversight of the National Leadership Command, Control, and Communications System].
  - Reference: 10 U.S.C. § 171a(e) (2017)
- Not later than 30 days after the President submits to Congress the budget for a fiscal year under section 1105(a) of title 31, the Commander of the United States Strategic Command shall submit to the Chairman of the Joint Chiefs of Staff an assessment of whether such budget allows the Federal Government to meet the required capabilities of the command, control, and communications system for the national leadership of the United States during the fiscal year covered by the budget and the four subsequent fiscal years and if the Commander determines that such budget does not allow the Federal Government to meet such required capabilities, a description of the steps being taken to meet such required capabilities. Not later than 30 days after the date on which the Chairman of the Joint Chiefs of Staff receives the assessment of the Commander of the United States Strategic Command. . . , the Chairman shall submit to the congressional defense committees such assessment as it was submitted to the Chairman and any comments of the Chairman.
  - Reference: 10 U.S.C. § 171a(g) (2017)
- If a House of Congress adopts a bill authorizing or appropriating funds for the activities of the command, control, and communications system for the national leadership of the United States that, as determined by the Council, provides insufficient funds for such activities for the period covered by such bill, the Council [on Oversight of the National Leadership Command, Control, and Communications System] shall notify the congressional defense committees of the determination.
  - Reference: 10 U.S.C. § 171a(g)(3) (2017)
- The Secretary of Defense shall submit to the congressional defense committees written notification of an anomaly in the nuclear command, control, and communications system for the national leadership of the United States that is reported to the Secretary or the Council by not later than 14 days after the date on which the Secretary or the Council learns of such anomaly, as the case may be.
  - Reference: 10 U.S.C. § 171a(h)(1) (2017)

- Not less than 90 days before each of the dates on which a system described in paragraph (2) [advanced extremely high frequency satellites; space-based infrared system; integrated tactical warning and attack assessment system and its command and control system; enhanced polar system] achieves Milestone A or Milestone B approval, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the congressional defense committees a report prepared by the Council detailing the implications of any changes to the architecture of such a system with respect to the systems, capabilities, and programs covered under subsection (d).
  - Reference: 10 U.S.C. § 171a(i)(1) (2017)
- None of the funds authorized to be appropriated or otherwise made available to the Department of Defense for any fiscal year may be used to change any command, control, and communications system described in subsection (d)(1) in a manner that reduces the warning time provided to the national leadership of the United States with respect to a warning of a strategic missile attack on the United States unless the Secretary of Defense notifies the congressional defense committees of such proposed change and reduction and a period of one year elapses following the date of such notification.
  - Reference: 10 U.S.C. § 171a(j)(1) (2017)
- The [Nuclear Weapons] Council shall submit to Congress a report on any analysis conducted by the Council with respect to the difficulties at nuclear weapons laboratories or nuclear weapons production plants that have significant bearing on confidence in the safety or reliability of nuclear weapons or nuclear weapon types.
  - Reference: 10 U.S.C. § 179(e) (2017)
- The [Nuclear Weapons] Council shall submit to Congress each year, at the same time the budget of the President for the fiscal year beginning in such year is submitted to Congress pursuant to section 1105(a) of title 31, a certification whether or not the amounts requested for the National Nuclear Security Administration in such budget, and anticipated over the four fiscal years following such budget, meets nuclear stockpile and stockpile stewardship program requirements for such fiscal year and over such four fiscal years.
  - Reference: 10 U.S.C. § 179(f)(1) (2017)
- If a House of Congress adopts a bill authorizing or appropriating funds for the National Nuclear Security Administration for nuclear stockpile and stockpile stewardship program activities or other activities that, as determined by the [Nuclear Weapons] Council, provides insufficient funds for such activities for the period covered by such bill, the Council shall notify the congressional defense committees of the determination.
  - Reference: 10 U.S.C. § 179(f)(2) (2017)
- With respect to the preparation of a budget for a fiscal year to be submitted by the President to Congress under section 1105(a) of title 31, the Secretary of Defense may not agree to a proposed transfer of estimated nuclear budget request authority unless the Secretary of Defense submits to the congressional defense committees a report described in subparagraph (B).
  - Reference: 10 U.S.C. § 179(f)(3) (2017)
- Not later than 30 days after the President submits to Congress the budget for a fiscal year under section 1105(a) of title 31, the Commander of the United States Strategic Command shall submit to the Chairman of the Joint Chiefs of Staff an assessment of whether such budget allows the Federal Government to meet the nuclear stockpile and

stockpile stewardship program requirements during the fiscal year covered by the budget and the four subsequent fiscal years and if the Command determines that such budget does not allow the Federal Government to meet such requirements, a description of the steps being taken to meet such requirements. Not later than 30 days after the date on which the Chairman of the Joint Chiefs of Staff receives the assessment of the Commander of the United States Strategic Command under subparagraph (A), the Chairman shall submit to the congressional defense committees such assessment as it was submitted to the Chairman and any comments of the Chairman.

- Reference: 10 U.S.C. § 179(f)(5) (2017)
- The Secretary of Defense shall ensure that, in the case of a recommendation by the Chairman of the Joint Chiefs of Staff to the Secretary that is approved by the Secretary, oversight information with respect to such recommendation that is produced as a result of the activities of the Joint Requirements Oversight Council is made available in a timely fashion to the congressional defense committees.
  - Reference: 10 U.S.C. § 181(g) (2017)
- After each meeting of the [Strategic Materials Protection] Board, the Board shall prepare a report containing the results of the meeting and such recommendations as the Board determines appropriate. Each such report shall be submitted to the congressional defense committees, together with comments and recommendations from the Secretary of Defense, not later than 90 days after the meeting covered by the report.
  - Reference: 10 U.S.C. § 187(d) (2017)
- Periodically (and not less often than every two years), the Chairman of the Joint Chiefs of Staff shall submit to the Secretary of Defense and the congressional defense committees a report on the combat support agencies..
  - Reference: 10 U.S.C. § 193(a) (2017)
- Not later than 60 days after the date on which the report is submitted under paragraph (3) [strategic plan for Department of Defense test and evaluation resources], the Secretary of Defense shall transmit to the Committee on Armed Services and Committee on the House of Appropriations of the Senate and the Committee on Armed Services and Committee on Appropriations of the House of Representatives the report, together with any comments with respect to the report that the Secretary considers appropriate.
  - Reference: 10 U.S.C. § 196(d)(4) (2017)
- The Secretary of Defense shall, not later than March 31 of the year preceding the fiscal year for which such budgets are proposed, submit to Congress a report on those proposed budgets which the Director has not certified under paragraph (2)(A) to be adequate. The report shall include the following matters: a discussion of the actions that the Secretary proposed to take, together with any recommended legislation that the Secretary considers appropriate, to address the inadequacy of the proposed budgets.. Any additional comments that the Secretary considers appropriate regarding the inadequacy of the proposed budgets.
  - Reference: 10 U.S.C. § 196(e)(3) (2017)
- The Secretary of Defense shall submit to Congress each year, at or about the time that the President's budget is submitted to Congress that year under section 1105(a) of title 31, a future-years defense program (including associated annexes) reflecting the estimated expenditures and proposed appropriations included in that budget.
  - Reference: 10 U.S.C. § 221(a) (2017)

- The Secretary of Defense shall submit to Congress for each fiscal year a future-years mission budget for the military programs of the Department of Defense. The budget shall be submitted for any fiscal year with the future-years defense program submitted under section 221 of this title.
  - Reference: 10 U.S.C. § 222(a) (2017)
- Not later than 10 days after the date on which the budget of the President for a fiscal year is submitted to Congress pursuant to section 1105 of title 31, each officer specified in subsection (b) [Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, commanders of the combatant commands] shall submit to the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, and to the congressional defense committees a report on the unfunded priorities of the armed force or forces or combatant command under the jurisdiction or command of such officer.
  - Reference: 10 U.S.C. § 222a(a) (2017)
- The Secretary of Defense shall establish criteria for the transfer of responsibility for a ballistic missile defense program from the Director of the Missile Defense Agency to the Secretary of a military department. . .The Secretary shall submit the criteria established, and any modifications to those criteria, to the congressional defense committees.
  - Reference: 10 U.S.C. § 224(b) (2017)
- Before responsibility for a ballistic missile defense program is transferred from the Director of the Missile Defense Agency to the Secretary of a military department, the Secretary of Defense shall submit to the congressional defense committees notice in writing of the Secretary’s intent to make that transfer. The Secretary shall include with such notice a certification that the program has met the criteria established under subsection (b) for such a transfer. The transfer may then be carried out after the end of the 60-day period beginning on the date of such notice.
  - Reference: 10 U.S.C. § 224(c) (2017)
- Not later than February 15 of each year, the Director [of the Missile Defense Agency] shall submit to the congressional defense committees a report on the acquisition baselines required by subsection (a).
  - Reference: 10 U.S.C. § 225(c) (2017)
- The Director [of the Missile Defense Agency] may adjust or revise an acquisition baseline established under this section if the Director submits to the congressional defense committees notification of a justification for such adjustment or revision; the specific adjustments or revisions made to the acquisition baseline, including elements described in subsection (b); and the effective date of the adjusted or revised acquisition baseline.
  - Reference: 10 U.S.C. § 225(d) (2017)
- The Secretary of Defense shall submit to Congress, as a part of the documentation that supports the President’s annual budget for the Department of Defense, a consolidated budget justification display, in classified and unclassified form, that includes all programs and activities of the Department of Defense combating terrorism program.
  - Reference: 10 U.S.C. § 229(a) (2017)
- The Secretary of Defense shall include with the defense budget materials for a fiscal year a plan for the construction of combatant and support vessels for the Navy developed in accordance with this section and a certification by the Secretary that both the budget for

that fiscal year and the future-years defense program, submitted to Congress in relation to such budget under section 221 of this title provide for funding of the construction of naval vessels at a level that is sufficient for the procurement of the vessels provided for in the plan under paragraph (1) on the schedule provide din that plan.

- Reference: 10 U.S.C. § 231(a) (2017)
- Not later than 45 days after the date on which the President submits to Congress the budget for a fiscal year, the Secretary of Defense shall submit to the congressional defense committees a plan for the procurement of the aircraft specified in subsection (b) for the Department of the Navy, the Department of the Army, and the Department of the Air Force developed in accordance with this section and a certification by the Secretary that both the budget for such fiscal year and the future-years defense program submitted to Congress in relation to such budget under section 221 of this title provide for funding of the procurement of aircraft at a level that is sufficient for the procurement of the aircraft provided for in the plan under paragraph (1) on the schedule provide din the plan.
  - Reference: 10 U.S.C. § 231a(a) (2017)
- If the budget for a fiscal year provides for funding of the procurement of aircraft for either the Department of the Navy, the Department of the Army, or the Department of the Air Force at a level that is not sufficient to sustain the aviation force structure specified in the aircraft procurement plan for such Department for that fiscal year under subsection (a), the Secretary shall include with the defense budget materials for that fiscal year an assessment that describes and discusses the risks associated with the reduced force structure of aircraft that will result from funding aircraft procurement at such level.
  - Reference: 10 U.S.C. § 231a(d) (2017)
- The Secretary of Defense shall submit to Congress, as a part of the defense budget materials for a fiscal year, a consolidated budget justification display, in classified and unclassified form, that covers all programs and activities of Department of Defense POW/MIA accounting and recovering organizations.
  - Reference: 10 U.S.C. § 234(a) (2017)
- In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year (as submitted with the budget of the President under section 1105(a) of title 31), the Secretary of Defense shall include the information described in subsection (b) with respect to the procurement of contract services.
  - Reference: 10 U.S.C. § 235 (2017)
- The Secretary of Defense shall submit to Congress, as a part of the defense budget materials for each fiscal year after fiscal year 2014, a consolidated budget display that covers all programs and activities associated with the procurement of personal protection equipment during the period covered by the future-years defense program submitted in that fiscal year under section 221.
  - Reference: 10 U.S.C. § 236(a) (2017)
- The Secretary of Defense shall submit to Congress, as a part of the documentation that supports the President's annual budget for the Department of Defense, a budget justification display with respect to embedded mental health providers within each reserve component, including the amount requested for each such component.
  - Reference: 10 U.S.C. § 237 (2017)
- The Secretary of Defense shall submit to Congress, as a part of the defense budget materials for fiscal year 2017 and each fiscal year thereafter, a budget justification

display that includes a major force program category for the five-year defense plan of the Department of Defense for the training, manning, and equipping of the cyber mission forces and program elements for the cyber mission forces.

- Reference: 10 U.S.C. § 238(a) (2017)
- The Secretary shall include with the defense budget materials for each of fiscal years 2017 through 2020 a report on the budget for national security space programs of the Department of Defense.
  - Reference: 10 U.S.C. § 239(b) (2017)
- Not less than 15 days before providing support for an activity under subsection (a) [support for the counterdrug activities and activities to counter transnational organized crime], the Secretary of Defense shall submit to the appropriate committees of Congress a written and electronic notice.
  - Reference: 10 U.S.C. § 284(h) (2017)
- The Secretary of Defense shall prescribe regulations for the administration of this section [payment of personnel expenses necessary for theater security cooperation]. Such regulations shall be submitted to the Committees on Armed Services of the Senate and the House of Representatives.
  - Reference: 10 U.S.C. § 312(f) (2017)
- Not later than the end of the first calendar quarter beginning after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2017, and every calendar quarter thereafter, the Secretary of Defense shall submit to the appropriate committees of Congress a notice setting forth the schedule of planned training engagement pursuant to subsection (a) during the calendar quarter first following the calendar quarter in which such notice is submitted.
  - Reference: 10 U.S.C. § 321(e) (2017)
- The Secretary of Defense shall prescribe regulations for the administration of this section [training with friendly foreign countries: payment of training and exercise expenses]. The Secretary shall submit the regulations to the Committees on Armed Services of the Senate and the House of Representatives.
  - Reference: 10 U.S.C. § 321(f)(1) (2017)
- Not later than April 1 of each year, the Secretary of Defense shall submit to Congress a report regarding training during the preceding fiscal year for which expenses were paid under this section [special operations forces, training with friendly foreign forces].
  - Reference: 10 U.S.C. § 322(e) (2017)
- The Secretary shall notify the appropriate committees of Congress of the designation of any operation pursuant to this subsection [providing support to friendly foreign countries].
  - Reference: 10 U.S.C. § 331(b)(2) (2017)
- The Secretary shall undertake on an annual basis a review of the operations currently designated pursuant to this subsection [providing support to friendly foreign countries] in order to determine whether each such operation merits continuing designation for purposes of this section for another year. If the Secretary determines that any operation so reviewed merits continuing designation for purposes of this section for another year, the Secretary may continue the designation of such operation under this subsection for such purposes for another year and if the Secretary so continues the designation of such

operation, shall notify the appropriate committees of Congress of the continuation of designation of such operation.

- Reference: 10 U.S.C. § 331(b)(3) (2017)
- The Secretary of Defense may provide support under subsection (a) to a friendly foreign country with respect to an operation in which the United States is not participating only if the Secretary of Defense and the Secretary of State jointly certify to the appropriate committees of Congress that the operation is in the national security interests of the United States and after the expiration of the 15-day period beginning on the date of such certification.
  - Reference: 10 U.S.C. § 331(d)(1) (2017)
- Each fiscal year quarter, the Secretary of Defense shall submit to the appropriate committees of Congress a report on activities under the program under paragraph (1) [training of personnel of foreign ministries with security missions] during the preceding fiscal year quarter.
  - Reference: 10 U.S.C. § 332(b)(2) (2017)
- Not later than 15 days before assigning a civilian employee of the Department of Defense as an advisor to a regional organization with a security mission under subsection (a), the Secretary shall submit to the appropriate committees of Congress a notification of such assignment.
  - Reference: 10 U.S.C. § 332(c) (2017)
- Not later than 15 days before initiating activities under a program under subsection (a) [programs to provide training and equipment to national security forces in foreign countries] the Secretary of Defense shall submit to the appropriate committees of Congress a written and electronic notice.
  - Reference: 10 U.S.C. § 333(e) (2017)
- The Director of the Defense Security Cooperation Agency shall, on a quarterly basis, submit to the appropriate committees of Congress a report setting forth, for the preceding calendar quarter, the following: information, by recipient country, of the delivery and execution status of all defense articles, training, defense services, supplies (including consumables), and small-scale construction under programs under subsection (a); information on the timeliness of delivery of defense articles, defense services, supplies (including consumables), and small-scale construction when compared with delivery schedules for such articles, services, supplies, and construction previously provided to Congress; information, by recipient country, on the status of funds allocated for programs under subsection (a), including amounts of unobligated funds, unliquidated obligations, and disbursements.
  - Reference: 10 U.S.C. § 333(f) (2017)
- An activity with forces referred to in subsection (a)(1)(B) [security forces of a foreign country] or organizations described in subsection (a)(1)(C) [governmental organizations of a foreign country whose primary functions include disaster response or emergency response] may be carried out only if the Secretary of Defense, with the concurrence of the Secretary of State, determines and notifies the appropriate congressional committees not less than 15 days before initiating such activity that the activity is in the national security interests of the United States.
  - Reference: 10 U.S.C. § 341(b)(1) (2017)

- Not later than February 1 following each of fiscal years 2016, 2017, and 2018, the Secretary of Defense shall submit to the appropriate congressional committees a report on activities under each program established under subsection (a) [Department of State Partnership Program] during such fiscal year.
  - Reference: 10 U.S.C. § 341(f)(1) (2017)
- The Secretary of Defense shall notify Congress if the total amount of money accepted under paragraph (1) exceeds \$1,000,000 in any fiscal year. Any such notice shall list each of the contributors of such money and the amount of each contribution in such fiscal year.
  - Reference: 10 U.S.C. § 343(f)(2) (2017)
- Not later than March 15 of each year, the Secretary of Defense shall submit to Congress a detailed report on the activities of the [Western Hemisphere] Institute [for Security Cooperation] during the preceding year.
  - Reference: 10 U.S.C. § 343(i) (2017)
- Not later than December 1 of each year, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the administration of this section [regional defense combating terrorism fellowship program] during the fiscal year ended in such year.
  - Reference: 10 U.S.C. § 345(c) (2017)
- If the Secretary modifies the guidance issued under paragraph (1) [guidance on the procedures of the use of authority to distribute certain foreign personnel of education and training materials and information technology], the Secretary shall submit to the appropriate committees of Congress a report setting forth the modified guidance not later than 30 days after the date of such modification.
  - Reference: 10 U.S.C. § 346(e)(2) (2017)
- Not later than 15 days after the application of any exception under subsection (b) [prohibition of training, equipment or other assistance for a unit of a foreign security force if the Secretary of Defense has evidence that the unit has committed gross violations of human rights] or the exercise of any waiver under subsection (c) [of such prohibition], the Secretary of Defense shall submit to the appropriate committees of Congress a report in the case of an exception under subsection (b), providing notice of the use of the exception and stating the grounds for the exception and in the case of a waiver under subsection (c), describing the information relating to the gross violation of human rights; the extraordinary circumstances that necessitate the waiver; the purpose and duration of the training, equipment, or other assistance, and the United States forces and the foreign security force unit involved.
  - Reference: 10 U.S.C. § 362(e) (2017)
- Not later than 30 days after the end of each calendar quarter, the Secretary shall submit to the appropriate committees of Congress a report on the obligation and expenditures of funds for security cooperation programs and activities of the Department of Defense during such calendar quarter.
  - Reference: 10 U.S.C. § 381(b) (2017)
- The Secretary shall submit to the congressional defense committees each year a report on the program under subsection (a) [assessment, monitoring, and evaluation in support of DOD security cooperation programs and activities] during the previous year.

- Reference: 10 U.S.C. § 383(d)(1) (2017)
- Not later than January 31 of each year beginning in 2018, the Secretary of Defense shall submit to the appropriate congressional committees a report that sets forth, on a country-by-country basis, a description of each program carried out by the Department of Defense under the authorities in subsection (c) to provide training, equipment, or other assistance or reimbursement during the fiscal year ending in the year before the year in which such report is submitted.
  - Reference: 10 U.S.C. § 386(a) (2017)
- The Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives a report, not later than March 1 of each year, on activities carried out under this section during the preceding fiscal year.
  - Reference: 10 U.S.C. § 401(d) (2017)
- Whenever the Secretary of Defense provides assistance to a foreign nation under this section [to assist in Department of Defense accounting for missing United States government personnel], the Secretary shall submit to the congressional defense committees a report on the assistance provided. Each such report shall identify the nation to which the assistance was provided and include a description of the type and amount of the assistance provided.
  - Reference: 10 U.S.C. § 408(f) (2017)
- Any funds expended under the authority of subsection (a) [intelligence and communications purposes] shall be reported to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives pursuant to the provisions of title V of the National Security Act of 1947.
  - Reference: 10 U.S.C. § 421(c) (2017)
- The Secretary shall report biennially to the congressional defense committees on expenditures and activities of the Department of Defense in carrying out the requirements of this section [defense industrial security]. The Secretary shall submit the report at or about the same time that the president's budget is submitted pursuant to section 1105(a) of title 31 in odd numbered years.
  - Reference: 10 U.S.C. § 428(f) (2017)
- Copies of regulations proposed to be prescribed under section 436 of this title [relating to intelligence commercial activities] (including any proposed revision to such regulations) shall be submitted to congressional defense committees and the congressional intelligence committees not less than 30 days before they take effect.
  - Reference: 10 U.S.C. § 437(a) (2017)
- Upon the completion of a survey under this section [surveys on racial, ethnic, and gender issues], the Secretary shall submit to Congress a report containing the results of the survey.
  - Reference: 10 U.S.C. § 481(e) (2017)
- Upon the completion of a survey under this section [workplace and gender relations issues], the Secretary shall submit to Congress a report containing the results of the survey.
  - Reference: 10 U.S.C. § 481a(c) (2017)

- Not later than 30 days after the end of each calendar-year quarter, the Secretary of Defense shall submit to Congress a report regarding the military readiness of the active and reserve components.
  - Reference: 10 U.S.C. § 482(a) (2017)
- The Secretary of Defense shall provide to the Committees on Armed Services of the House of Representatives and the Senate quarterly briefings on all offensive and significant defensive military operations in cyberspace carried out by the Department of Defense during the immediately preceding quarter.
  - Reference: 10 U.S.C. § 484 (2017)
- The Secretary of Defense shall provide to the congressional defense committees monthly briefings outlining Department of Defense counterterrorism operations and related activities.
  - Reference: 10 U.S.C. § 485(a) (2017)
- From time to time as the Secretary and the Chairman of the Joint Chiefs of Staff determine useful for the effective oversight of the access by the Department to electromagnetic spectrum, but not less frequently than every two years, the Secretary and the Chairman shall jointly submit to the congressional defense committees a report on national policy plans regarding implications for such access in bands identified for study for potential reallocation, or under consideration for potential reallocation, by the Policy and Plans Steering Group established by the National Telecommunications and Information Administration.
  - Reference: 10 U.S.C. § 488(b) (2017)
- Not later than March 15 of each year, the Secretary of Defense shall provide to the congressional defense committees a briefing regarding the nuclear weapons employment strategy, plans, and options of the United States.
  - Reference: 10 U.S.C. § 491(b) (2017)
- Not later than December 1 of each even-numbered year, each covered official shall submit to the Secretary of Defense and the Nuclear Weapons Council established by section 179 of this title a report on the assessments conducted under subsection (a) [on the safety, security, reliability, sustainability, performance, and military effectiveness of, and the ability to meet operational availability requirements for nuclear weapons, command, and control systems].
  - Reference: 10 U.S.C. § 492(b) (2017)
- Not later than March 1 of each year following a year for which a report under subsection (b) is submitted [on the safety, security, reliability, sustainability, performance, and military effectiveness of, and the ability to meet operational availability requirements for nuclear weapons, command, and control systems], the Secretary of Defense shall submit to the President a report. . . Not later than March 15 of each year during which a report under paragraph (1) is submitted, the President shall transmit to the congressional defense committees the report submitted to the President under paragraph (1), including any comments the President considers appropriate.
  - Reference: 10 U.S.C. § 492(c) (2017)
- Not later than March 1, 2012, and annually thereafter, the Secretary of Defense shall submit to the congressional defense committees a report on the nuclear weapons stockpile of the United States that includes the following: an accounting of the weapons in the stockpile as of the end of the fiscal year preceding the submission of the report that

includes all weapons in the active and inactive stockpiles, both deployed and non-deployed, and all categories and readiness states of such weapons; the planned force levels for each category of nuclear weapon over the course of the future-years defense program submitted to Congress under section 221 of title 10 for the fiscal year following the fiscal year in which the report is submitted.

- Reference: 10 U.S.C. § 494(b)(2) (2017)
- If, during any year beginning after December 31, 2011, the President makes a proposal described in paragraph (s) [proposal to reduce the number of nuclear weapons]. . .the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives the assessment [of the current and proposed nuclear forces] described in subparagraph (A), unchanged, together with the explanatory views of the Secretary, as the Secretary deems appropriate.
  - Reference: 10 U.S.C. § 494(c)(1)(B) (2017)
- Not later than 60 days before the President recommends any reductions to the nuclear forces of the United States. . .the Commander of the United States Strategic Command shall certify to the appropriate congressional committees whether such recommended reductions in the nuclear forces of the United States will impair the ability of the United States to address unplanned strategic or geopolitical events or technical challenge or degrade the deterrence or assurance provided by the United States to friends and allies of the United States.
  - Reference: 10 U.S.C. § 496(a)(2) (2017)
- Not less than 90 days before the date on which the Secretary of Defense reduces or consolidates the dual-capable aircraft of the United States that are based in Europe, the Secretary shall submit to the congressional defense committees a notification of such planned reduction or consolidation.
  - Reference: 10 U.S.C. § 497a(a) (2017)

*Review Commissions:* None

*Advisory Commissions:* There is in the Department of Defense an Armed Forces Policy Council. . .The Armed Forces Policy Council shall advise the Secretary of Defense on matters of broad policy relating to the armed forces and shall consider and report on such other matters as the Secretary of Defense may direct.

- Reference: 10 U.S.C. § 171 (2017)
- The Secretary of Defense may establish such advisory committees and employ such part-time advisers as he considers necessary for the performance of his functions and those of the agencies under his control.
  - Reference: 10 U.S.C. § 173(a) (2017)
- The Secretary of each military department may establish such advisory committees and panels as are necessary for the research and development activities of his department and may employ such part time advisers as he considers necessary to carry out those activities.
  - Reference: 10 U.S.C. § 174(a) (2017)
- There shall be in the Department of Defense a Communications Security Review and Advisory Board to review and assess the communications security, cryptographic modernization, and related key management activities and to provide advice to the Secretary with respect to such activities.
  - Reference: 10 U.S.C. § 189 (2017)

- There shall be a Board of Visitors for the [Western Hemisphere] Institute [for Security Cooperation]. . .The Board shall inquire into the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Institute, other matters relating to the Institute that the Board decides to consider, and any other matter that the Secretary determines appropriate. . .The Federal Advisory Committee Act. . .shall apply to the Board.

- Reference: 10 U.S.C. § 343(e) (2017)

*Action Require Outside Approval:* The Secretary of Defense and the Secretary of Energy shall enter into an agreement with the Council to furnish necessary staff and administrative services to the [Nuclear Weapons] Council.

- Reference: 10 U.S.C. § 179(c)(1) (2017)

- Department of Defense personnel made available to a civilian law enforcement agency under this subsection [maintenance and operation of equipment for law enforcement] may operate equipment for the following purposes. . .Subject to joint approval by the Secretary of Defense and the Attorney General (and the Secretary of State in the case of a law enforcement operation outside of the land area of the United States) the transportation of civilian law enforcement personnel along with any other civilian or military personnel who are supporting, or conducting, a joint operation with civilian law enforcement personnel; the operation of a base operations for civilian law enforcement and supporting personnel; and the transportation of suspected terrorists from foreign countries to the United States for trial (so long as the requesting Federal law enforcement agency provides all security for such transportation and maintains custody over the suspect through the duration of the transportation).

- Reference: 10 U.S.C. § 274(b)(2)(F) (2017)

- The Secretary of Defense and the Attorney General shall jointly prescribe regulations concerning the types of assistance that may be provided under this section [emergency situations involving weapons of mass destruction].

- Reference: 10 U.S.C. § 282(d) (2017)

- The Secretary of Defense and the Attorney General shall jointly prescribe regulations concerning the types of assistance that may be provided under this section [situations involving bombings of places of public use, Government facilities, public transportation systems, and infrastructure facilities].

- Reference: 10 U.S.C. § 283(c) (2017)

- The Secretary of Defense may provide support under subsection (a) to a friendly foreign country with respect to an operation in which the United States is not participating only if the Secretary of Defense and the Secretary of State jointly certify to the appropriate committees of Congress that the operation is in the national security interests of the United States and after the expiration of the 15-day period beginning on the date of such certification.

- Reference: 10 U.S.C. § 331(d)(1) (2017)

- The Secretary of Defense may, with the concurrence of the Secretary of State, carry out a program to assign civilian employees of the Department of Defense as advisors to the ministries of defense (or security agencies serving a similar defense function) of foreign countries or regional organizations with security missions in order to provide institutional, ministerial-level advice, and other training to personnel of the ministry or regional organization to which assigned in support of stabilization or post-conflict

activities or assist such ministry or regional organization in building core institutional capacity, competencies, and capabilities to manage defense-related processes.

- Reference: 10 U.S.C. § 332(a) (2017)
- The Secretary of Defense may, with the concurrence of the Secretary of State, carry out a program to provide training and associated training support services to personnel of foreign ministries of defense (or ministries with security force oversight) or regional organizations with security missions.
  - Reference: 10 U.S.C. § 332(b)(1) (2017)
- The concurrence of the Secretary of State is required to conduct or support any program authorized by subsection (a) [programs to provide training and equipment to national security forces in foreign countries]. The Secretary of Defense and the Secretary of State shall jointly develop and plan any program carried out pursuant to subsection (a).
  - Reference: 10 U.S.C. § 333(b) (2017)
- The Secretary of Defense, with the concurrency of the Secretary of State, is authorized to establish a program of activities described in paragraph (2) to support the security cooperation objectives of the United States, between members of the National Guard of a State or territory and any of the following: the military forces of a foreign country; the security forces of a foreign country; governmental organizations of a foreign country whose primary functions include disaster response or emergency response.
  - Reference: 10 U.S.C. § 341(a)(1) (2017)
- The Secretary of Defense may, with the concurrence of the Secretary of State, waive reimbursement otherwise required under this subsection of the costs of activities of the Regional Centers [for Security Studies] for personnel of nongovernmental and international organizations who participate in activities of the Regional Centers that enhance cooperation of nongovernmental organizations and international organizations with United States forces if the Secretary of Defense determines that attendance of such personnel without reimbursement is in the national security interest of the United States.
  - Reference: 10 U.S.C. § 342(f)(3)(B)(i) (2017)
- The Secretary of Defense may, with the concurrence of the Secretary of State, authorize the participation of members of the armed forces and Department of Defense civilian personnel in any multinational military center of excellence for the purposes of enhancing the ability of military forces and civilian personnel of nations participating in such center to engage in joint exercises or coalition or international military operations or improving interoperability between the armed forces and the military forces of friendly foreign nations. The participation of members of the armed forces or Department of Defense civilian personnel in a multinational military center of excellence under subsection (a) shall be in accordance with the terms of one or more memoranda of understanding entered into by the Secretary of Defense, with the concurrence of the Secretary of State, and the foreign nation or nations concerned.
  - Reference: 10 U.S.C. § 344 (2017)
- To enhance interoperability between the armed forces and military forces of friendly foreign countries, the Secretary of Defense, with the concurrence of the Secretary of State, may provide to personnel referred to in subsection (b) electronically-distributed learning content for the education and training of such personnel for the development or enhancement of allied and friendly military and civilian capabilities for multinational operations, including joint exercises and coalition operations and provide information

technology, including computer software developed for such purpose, but only to the extent necessary to support the use of such learning content for the education and training of such personnel.

- Reference: 10 U.S.C. § 346(a) (2017)
- The Secretary of Defense shall seek the concurrence of the Secretary of State to the extent the efforts and activities of the Center involve the entities referred to in subparagraphs (B) and (C) of subsection (b)(2) [foreign governments and militaries; international organizations and international nongovernmental organizations].
  - Reference: 10 U.S.C. § 409(c) (2017)
- Funds expended under the authority of subsection (b) [expenses of arrangements with foreign countries for cryptologic support] shall be reported pursuant to procedures jointly agreed upon by such committees [Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives] and the Secretary of Defense.
  - Reference: 10 U.S.C. § 421(c) (2017)
- Except with the written permission of both the Secretary of Defense and the Director of National Intelligence, no person may knowingly use, in connection with any merchandise, retail product, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Secretary and the Director, any of the following (or any colorable imitation thereof): [DIA, NRO, NIMA, DMA, NGA].
  - Reference: 10 U.S.C. § 425(a) (2017)
- The Secretary of Defense shall seek the concurrence of the Director of National Intelligence to the extent the efforts and activities of the [Conflict Records Research] Center involve the entities referred to in subsection (b)(4) [members of academic and broad national security communities].
  - Reference: 10 U.S.C. § 427(c) (2017)

*Legislative Veto:* None

*Adjudication:* None

## **Air Force**

*Date of Creation:* July 26, 1947<sup>114</sup>

*Statute:* 10 U.S.C. §§ 8011-9842 (2017)

*Authorizing Language:* The Department of the Air Force is separately organized under the Secretary of the Air Force. It operates under the authority, direction, and control of the Secretary of Defense.

- Reference: 10 U.S.C. § 8011 (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* There is a Secretary of the Air Force, appointed from civilian life. . The Secretary shall, to the greatest extent practicable, be appointed from among persons most highly qualified for the position by reason of background and experience, including persons with appropriate management or leadership experience.

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<sup>114</sup> National Security Act of 1947, Pub. L. No. 253, 61 Stat. 495 (1947).

- Reference: 10 U.S.C. § 8013(a)(1) (2017)
- A person may not be appointed as Secretary of the Air Force within five years after relief from active duty as a commissioned officer of a regular component of an armed force.
  - Reference: 10 U.S.C. § 8013(a)(2) (2017)
- The head of the office [of the Secretary of the Air Force] or other entity established or designated by the Secretary to conduct the auditing function shall have at least five years of professional experience in accounting or auditing.
  - Reference: 10 U.S.C. § 8014(c)(5) (2017)
- There is an Under Secretary of the Air Force, appointed from civilian life.
  - Reference: 10 U.S.C. § 8015(a) (2017)
- There are four Assistant Secretaries of the Air Force. They shall be appointed from civilian life.
  - Reference: 10 U.S.C. § 8016(a) (2017)
- The Assistant Secretary for Acquisition, Technology, and Logistics shall have a Principal Military Deputy, who shall be an officer of the Air Force on active duty. The Principal Military Deputy shall be appointed from among officers who have significant experience in the areas of acquisition and program management.
  - Reference: 10 U.S.C. § 8016(b)(4)(B) (2017)
- There is a General Counsel of the Department of the Air Force, appointed from civilian life.
  - Reference: 10 U.S.C. § 8019(a) (2017)
- There is an Inspector General of the Air Force who shall be detailed to such a position by the Secretary of the Air Force from the general officers of the Air Force.
  - Reference: 10 U.S.C. § 8020(a) (2017)
- There is a Chief of Staff of the Air Force, appointed. . .from the general officers of the Air Force. . .The President may appoint an officer as Chief of Staff only if the officer has had significant experience in joint duty assignments and such experience includes at least one full tour of duty in a joint duty assignment (as defined in section 664(f) of this title) as a general officer. The President may waive paragraph (2) [requirements] in case of an officer if the President determines such action is necessary in the national interest.
  - Reference: 10 U.S.C. § 8033(a) (2017)
- The Judge Advocate General of the Air Force shall be appointed from those officers who at the time of appointment are members of the bar of a Federal court or the highest court of a State, and who have had at least eight years of experience in legal duties as commissioned officers.
  - Reference: 10 U.S.C. § 8037(b) (2017)
- There is a Deputy Judge Advocate General in the Air Force, who is appointed. . .from officers of the Air Force who have the qualifications prescribed in subsection (b) for the Judge Advocate General.
  - Reference: 10 U.S.C. § 8037(d)(1) (2017)
- The President. . .shall appoint the Chief of Air Force Reserve from general officers of the Air Force Reserve who have had at least 10 years of commissioned service in the Air Force.
  - Reference: 10 U.S.C. § 8038(b)(10) (2017)

- There is a Chief of Chaplains in the Air Force, appointed by the President, by and with the advice and consent of the Senate, from officers of the Air Force designated under section 8067(h) of this title as chaplains who are serving on active duty and have served on active duty as chaplain for at least eight years.
  - Reference: 10 U.S.C. § 8039(a) (2017)
- The Secretary of the Air Force shall appoint the Chief from the officers of the Regular Air Force designated as Air Force nurses whose regular grade is above lieutenant colonel and who are recommended by the Surgeon General.
  - Reference: 10 U.S.C. § 8069(b) (2017)
- There is an Assistant Surgeon General for Dental Services in the Air Force who is appointed by the Secretary of the Air Force upon the recommendation of the Surgeon General from officers of the Air Force above the grade of lieutenant colonel who are designated dental officers under section 8067(b) of this title.
  - Reference: 10 U.S.C. § 8081 (2017)
- The Commandant [of the United States Air Force Institute of Technology] shall be one of the following: an officer of the Air Force on active duty in a grade not below the grade of colonel who possesses such qualifications as the Secretary considers appropriate and is assigned or detailed to such position; a member of the Senior Executive Service or a civilian individual, including an individual who was retired from the Air Force in a grade not below brigadier general, who has the qualifications appropriate for the position of Commandant and is selected by the Secretary as the best qualified from among candidates for the position in accordance with a process and criteria determined by the Secretary.
  - Reference: 10 U.S.C. § 9314(a)(2) (2017)
- There is established at the United States Air Force Institute of Technology the civilian position of Provost and Academic Dean.
  - Reference: 10 U.S.C. § 9314b(b)(1) (2017)
- At least two of the members designated by the President [to the Board of Visitors to the Air Force Academy] shall be graduates of the Academy.
  - Reference: 10 U.S.C. § 9355(b)(2) (2017)
- The Board of Governors [of the Civil Air Patrol] is composed of 11 members as follows:
  - . . .four members of the Civil Air Patrol. . .three members appointed or selected as provided in subsection (c) from among personnel of any Federal Government agencies, public corporations, nonprofit associations, and other organizations that have an interest and expertise in civil aviation and the Civilian Air Patrol mission.
  - Reference: 10 U.S.C. § 9447(b) (2017)

*Party Balancing:* N/A

*Fixed Terms:* There is a Chief of Staff of the Air Force, appointed for a period of four years by the President, by and with the advice and consent of the Senate. . .he serves at the pleasure of the President. In time of war or during a national emergency declared by Congress, he may be appointed for a term of not more than four years.

- Reference: 10 U.S.C. § 8033(a)(1) (2017)
- There is a Judge Advocate General in the Air Force. . .the term of office is four years.
  - Reference: 10 U.S.C. § 8037(a) (2017)
- The term of office of the Deputy Judge Advocate General is four years.

- Reference: 10 U.S.C. § 8037(d)(1) (2017)
- The Chief of the Air Force Reserve is appointed for a period of four years, but may be removed for cause at any time. An officer serving as Chief of Air Force Reserve may be reappointed for one additional four-year period.
  - Reference: 10 U.S.C. § 8038(c) (2017)
- An officer appointed as the Chief of Chaplains shall be appointed for a term of three years. However, the President may terminate or extend the appointment at any time.
  - Reference: 10 U.S.C. § 8039(b) (2017)
- An individual selected for the position of Commandant under paragraph (2)(B) shall serve in that position for a term of not more than five years and may continue in that position for an additional term of up to five years.
  - Reference: 10 U.S.C. § 9314b(a)(3) (2017)
- An individual appointed to the position of Provost and Academic Dean shall serve in that position for a term of five years.
  - Reference: 10 U.S.C. § 9314b(b)(2) (2017)
- An officer who is detailed to the position of Superintendent of the [Air Force] Academy shall be so detailed for a period of not less than three years.
  - Reference: 10 U.S.C. § 9333a(b) (2017)
- The Chairman of the Board of Governors [of the Civilian Air Patrol]. . .shall serve for a term of two years.
  - Reference: 10 U.S.C. 9447(d) (2017)

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* If the Secretary of the Air Force dies, resigns, is removed from office, is absent, or is disabled, the person who is highest on the following list, and who is not absent or disabled, shall perform the duties of the Secretary until the President, under section 3347 of title 5, directs another person to perform those duties or until the absence or disability ceases: the Under Secretary of the Air Force; the Assistant Secretaries of the Air Force, in the order prescribed by the Secretary of the Air Force and approved by the Secretary of Defense; the General Counsel of the Department of the Air Force; the Chief of Staff.

- Reference: 10 U.S.C. § 8017 (2017)

*Who is Head of Agency:* There is a Secretary of the Air Force, appointed. . .by the President, by and with the advice and consent of the Senate. . .The Secretary is the head of the Department of the Air Force.

- Reference: 10 U.S.C. § 8013(a)(1) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The [United States Air Force] Institute [of Technology] shall charge tuition for the cost of providing instruction at the Institute for any civilian employee of a military department (other than a civilian employee of the Department of the Air Force), or another component of the Department of Defense, or of another Federal agency who receives instruction at the Institute. . .Amounts received by the Institute for the instruction of students under this subsection shall be retained by the Institute. Such

amounts shall be available to the Institute to cover the costs of such instruction. The source and disposition of such amounts shall be specifically identified in the records of the Institute.

- Reference: 10 U.S.C. § 9314(4) (2017)
- The Secretary of the Air Force may accept from a donor or donors a qualified guarantee for the completion of a major project for the benefit of the [Air Force] Academy.
  - Reference: 10 U.S.C. § 9356(a) (2017)
- The Secretary of the Air Force may authorize the Superintendent of the Academy to accept qualifying research grants under this section. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the Academy for a scientific, literary, or educational purpose.
  - Reference: 10 U.S.C. § 9357(a) (2017)
- The Secretary of the Air Force may, in accordance with the laws of the State of incorporation, establish a corporation to support the athletic programs of the Academy. All stock of the corporation shall be owned by the United States and held in the name of and voted by the Secretary of the Air Force. . .The Secretary of the Air Force may, subject to the acceptance of the corporation, transfer to the corporation all title to and ownership of the assets and liabilities of the Air Force nonappropriated fund instrumentality whose functions include providing support for the athletic programs of the Academy, including bank accounts and financial reserves in its accounts, equipment, supplies, and other personal property, but excluding any interest in real property. . .The Secretary of the Air Force may accept from the corporation funds, supplies, equipment, and services for the support of the athletic programs of the Academy. The Secretary may charge fees for the support of the athletic programs of the Academy. The Secretary may accept and retain fees for services and other benefits provided incident to the operation of its athletic programs. . .Any funds received under this section may be retained for use in support of the athletic programs of the Academy and shall remain available until expended.
  - Reference: 10 U.S.C. § 9362 (2017)
- The Secretary of the Air Force may authorize the Commandant of the Air War College to accept qualifying research grants. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the College for a scientific, literary, or educational purpose.
  - Reference: 10 U.S.C. § 9417(a) (2017)
- The Secretary of the Air Force may charge a person a fee for providing the person with information from a United States Air Force Military History Institute that is requested by that person. . .Amounts received under subsection (a) for providing information in any fiscal year shall be credited to the appropriation or appropriations charged the costs of providing information to the public from the United States Air Force Military History Institute during that fiscal year.
  - Reference: 10 U.S.C. § 9594 (2017)
- The proceeds of sales of the following shall be paid into the Treasury to the credit of the appropriation out of which they were purchased, and are available for the purposes of that appropriations: exterior articles of uniform sold under section 9621 of this title; supplies, war material, and military publications sold to educational institutions under section 9627 of this title; fuel, oil, other supplies, and services sold under section 9626 of this title.

- Reference: 10 U.S.C. § 9629 (2017)
- The Secretary of the Air Force, under such conditions as he may prescribe, may sell obsolete or excess material to the National Council of the Boy Scouts of America.. Sales under this section shall be at fair value to the Department of the Air Force, including packing, handling, and transportation.
  - Reference: 10 U.S.C. § 9682 (2017)
- The Secretary of the Air Force may sell, without advertisement and at prices that he considers reasonable surplus obsolete small arms and ammunition and equipment for them, to any patriotic organization for military purposes and surplus obsolete brass or bronze cannons, carriages, and cannon balls, for public parks, public buildings, and soldiers monuments.
  - Reference: 10 U.S.C. § 9584 (2017)
- The Secretary of the Air Force may accept for the United States a gift of land that he considers suitable and desirable for a permanent mobilization, training, or supply base and land that he considers suitable and desirable for an aviation field, if the gift is from a citizen of the United States and its terms authorize the use of the property by the United States for any purpose.
  - Reference: 10 U.S.C. § 9771 (2017)
- The Secretary of the Air Force may, under regulations prescribed by the Secretary, require payment by a civil air carrier for support provided by the United States to the carrier at Johnston Atoll that is either requested by the civil air carrier or determined under the regulations as being necessary to accommodate the civil air carrier's use of Johnston Atoll. . . Amounts collected from an air carrier under this section shall be credited to appropriations available for the fiscal year in which collected as follows: for support provided by the Air Force, to appropriations available for the Air Force for operation and maintenance.
  - Reference: 10 U.S.C. § 9783 (2017)

*Reporting Requirements:* The Secretary of Defense may waive the requirement in subsection (a) [that the Secretary of the Air Force retire the officer under the position of Superintendent of the United States Air Force Academy] for good cause. In each case in which such waiver is granted for an officer, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a written notification of the waiver, with a statement of the reasons supporting the decision that the officer not retire, and a written notification of the intent of the President to nominate the officer for reassignment.

- Reference: 10 U.S.C. § 8921(b) (2017)
- When seeking to establish degree granting authority under this section [regarding regulations prescribed by the Secretary of the Air Force for the United States Air Force Institute of Technology], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a copy of self-assessment questionnaire required by the Federal Policy Governing Granting of Academic Degrees by Federal Agencies, at the time the assessment is submitted to the Department of Education's National Advisory Committee on Institutional Quality and Integrity and the subsequent recommendations and rationale of the Secretary of Education regarding the establishment of the degree granting authority.
  - Reference: 10 U.S.C. § 9314(c)(1) (2017)

- Upon any modification or redesignation of existing degree granting authority [of the United States Air Force Institute of Technology], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the rationale for the proposed modification or redesignation and any subsequent recommendation of the Secretary of Education on the proposed modification or redesignation.
  - Reference: 10 U.S.C. § 9314(c)(2) (2017)
- The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing an explanation of any action by the appropriate academic accrediting agency or organization not to accredit the United States Air Force Institute of Technology to award any new or existing degree.
  - Reference: 10 U.S.C. § 9314(c)(3) (2017)
- When seeking to establish degree granting authority under this section [for Air University], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a copy of the self-assessment questionnaire required by the Federal Policy Governing Granting of Academic Degrees by Federal Agencies, at the time the assessment is submitted to the Department of Education's National Advisory Committee on Institutional Quality and Integrity and the subsequent recommendations and the subsequent recommendations and rationale of the Secretary of Education regarding the establishment of the degree granting authority.
  - Reference: 10 U.S.C. § 9317(c)(1) (2017)
- Upon any modification or redesignation of existing degree granting authority [of Air University], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the rationale for the proposed modification or redesignation and any subsequent recommendation of the Secretary of Education on the proposed modification or redesignation.
  - Reference: 10 U.S.C. § 9317(c)(2) (2017)
- The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing an explanation of any action by the appropriate academic accrediting agency or organization not to accredit the Air University to award any new or existing degree
  - Reference: 10 U.S.C. § 9317(c)(3) (2017)
- In any case in which an officer serving as Superintendent is reassigned or retires before having completed three years of service as Superintendent, or otherwise leaves that position (other than due to death) without having completed three years service in that position, the Secretary of the Air Force shall submit to Congress notice that such officer left the position of Superintendent without having completed three years service in that position, together with a statement of the reasons why that officer did not complete three years service in that position.
  - Reference: 10 U.S.C. § 9333a(b) (2017)
- The Secretary of the Air Force may limit the number of cadets authorized to be appointed under this section to the number that can be adequately accommodated at the Academy as determined by the Secretary of consulting with the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.
  - Reference: 10 U.S.C. § 9342(g) (2017)

- The Superintendent [of the Air Force Academy] shall furnish to any Member of Congress, upon the written request of such Member, the name of the Congressman or other nominating authority responsible for the nomination of any named or identified person for appointment to the Academy.
  - Reference: 10 U.S.C. § 9342(h) (2017)
- Any increase in the cadet strength limit under paragraph (1) with respect to an academic year shall be prescribed not later than the date on which the budget of the President is submitted to Congress under sections 1105 of title 31 for the fiscal year beginning in the same year as the year in which that academic year briefings. Whenever the Secretary prescribes such an increase, the Secretary shall submit to Congress a notice in writing of the increase.
  - Reference: 10 U.S.C. § 9342(j)(2) (2017)
- The Board [of Visitors to the Air Force Academy] shall prepare a semiannual report containing its views and recommendations pertaining to the Academy, based on its meeting since the last such report and any other considerations it determines relevant. Each such report shall be submitted concurrently to the Secretary of Defense, through the Secretary of the Air Force, and to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.
  - Reference: 10 U.S.C. § 9355(f) (2017)
- The Secretary of Defense shall transmit each such report [on sexual harassment and sexual violence at the Air Force Academy], together with the Secretary's comments on the report, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.
  - Reference; 10 U.S.C. § 9361(d)(4)(B) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* So far as consistent with the requirements of military training and service, and under regulations to be prescribed by the Secretary of the Air Force with the approval of the President, enlisted members of the Air Force shall be permitted to study and receive instruction to increase their military efficiency and to enable them to return to civilian life better equipped for industrial, commercial and business occupations.

- Reference: 10 U.S.C. § 9302(a) (2017)
- A degree [from the United States Air Force Institute of Technology] may not be conferred under this section unless the Secretary of Education has recommended approval of the degree in accordance with the Federal Policy Governing Granting of Academic Degrees by Federal Agencies and the United States Air Force Institute of Technology is accredited by the appropriate civilian academic accrediting agency or organization to award the degree, as determined by the Secretary of Education.
  - Reference: 10 U.S.C. § 9314(b) (2017)
- A degree [from Air University] may not be conferred under this section unless the Secretary of Education has recommended approval of the degree in accordance with the Federal Policy Governing Granting of Academic Degrees by Federal Agencies and the Air University is accredited by the appropriate civilian academic accrediting agency or organization to award the degree, as determined by the Secretary of Education.
  - Reference: 10 U.S.C. § 9317(b) (2017)

*Legislative Veto:* None

*Adjudication:* None

## **Army**

*Date of Creation:* August 7, 1789<sup>115</sup>

*Statute:* 10 U.S.C. §§ 3001-4842 (2017)

*Authorizing Language:* The Department of the Army is separately organized under the Secretary of the Army. It operates under the authority, direction, and control of the Secretary of Defense.

- Reference: 10 U.S.C. § 3011 (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* The Secretary of the Army, appointed from civilian life. . .shall, to the greatest extent practicable, be appointed from among persons most highly qualified for the position by reason of background and experience, including persons with appropriate management or leadership experience.

- Reference: 10 U.S.C. § 3013(a)(1) (2017)
- A person may not be appointed as Secretary of the Army within five years after relief from active duty as a commissioned officer of a regular component of an armed force.
  - Reference: 10 U.S.C. § 3013(a)(2) (2017)
- The head of the office or other entity established or designated by the Secretary to conduct the auditing function [of the Office of the Secretary] shall have at least five years of professional experience in accounting or auditing.
  - Reference: 10 U.S.C. § 3013(c)(5) (2017)
- There is an Under Secretary of the Army, appointed from civilian life.
  - Reference: 10 U.S.C. § 3015(a) (2017)
- There are five Assistant Secretaries of the Army. They shall be appointed from civilian life.
  - Reference: 10 U.S.C. § 3016(a) (2017)
- There is a General Counsel of the Department of the Army, appointed from civilian life.
  - Reference: 10 U.S.C. § 3019(a) (2017)
- There is an Inspector General of the Army who shall be detailed to such position by the Secretary of the Army from the general officers of the Army.
  - Reference: 10 U.S.C. § 3020(a) (2017)
- The President may appoint an office as Chief of Staff only if the officer has had significant experience in joint duty assignments and such experience includes at least one full tour of duty in a joint duty assignment (as defined in section 664(f) of this title) as a general officer.
  - Reference: 10 U.S.C. § 3033(a)(2) (2017)
- Each officer named in subsection (a) [Chief of Engineers, Surgeon General, Judge Advocate General, Chief of Chaplains], except the Judge Advocate General, shall be appointed. . .from officers above the grade of major who have shown by extensive duty in the branch concerned, or by similar duty, that they are qualified for the appointment and have been recommended by a board under subsection (e).

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<sup>115</sup> 1 Stat. 95 (1789).

- Reference: 10 U.S.C. § 3036(b) (2017)
- The Judge Advocate General shall be appointed from those officers who at the time of appointment are members of the bar of a Federal court or the highest court of a State, and who have had at least eight years of experience in legal duties as commissioned officers.
  - Reference: 10 U.S.C. § 3037(b) (2017)
- The President shall appoint the Chief of Army Reserve from general officers of the Army Reserve who have had at least 10 years of commissioned service in the Army Reserve.
  - Reference: 10 U.S.C. § 3038(b) (2017)
- The Secretary of the Army shall appoint the Chief [of the Army Nurse Corps] from the officers of the Regular Army in that corps whose regular grade is above lieutenant colonel and who are recommended by the Surgeon General.
  - Reference: 10 U.S.C. § 3069(b) (2017)
- The Secretary of the Army shall appoint the Chief from the officers of the Regular Army in that corps whose regular grade is above captain and who are recommended by the Surgeon General.
  - Reference: 10 U.S.C. § 3070(b) (2017)
- The Chief of the Dental Corps shall be an officer of that corps appointed as prescribed in section 3039 of this title.
  - Reference: 10 U.S.C. § 3081(a) (2017)
- The Chief of the Veterinary Corps of the Army shall be appointed from among officers of the Veterinary Corps.
  - Reference: 10 U.S.C. § 3084 (2017)
- No graduate of the Academy may be appointed or detailed to serve at the Academy as a professor or instructor, or as an assistant to a professor or instructor, within two years after his graduation.
  - Reference: 10 U.S.C. § 4333(e) (2017)
- There shall be a chaplain at the [Military] Academy, who must be a clergyman.
  - Reference: 10 U.S.C. § 4337 (2017)
- An individual serving as the superintendent of one of the Cemeteries should have, as determined by the Secretary of the Army experience in the administration, management, and operation of cemeteries under the jurisdiction of the National Cemeteries System administered by the Department of Veterans Affairs or experience in the administration, management, and operation of large civilian cemeteries equivalent to the experience described in paragraph (1).
  - Reference: 10 U.S.C. § 4725(a) (2017)

*Party Balancing:* N/A

*Fixed Terms:* An officer may not be detailed to such position [Inspector General] for a tour of duty of more than four years, except that the Secretary may extend such a tour of duty if he makes a special finding that the extension is necessary in the public interest.

- Reference: 10 U.S.C. § 3020(a) (2017)
- An officer appointed under subsection (b) [Chief of Engineers, Surgeon General, Judge Advocate General, Chief of Chaplains] normally holds office for four years. However, the President may terminate or extend the appointment at any time.
  - Reference: 10 U.S.C. § 3036(c) (2017)

- The term of office of the Judge Advocate General and the Deputy Judge Advocate General is four years.
  - Reference: 10 U.S.C. § 3037(a) (2017)
- The Chief of Army Reserve is appointed from a period of four years, but may be removed for cause at any time. An officer serving as Chief of Army Reserve may be reappointed for one additional four-year period.
  - Reference: 10 U.S.C. § 3038(c) (2017)
- The Chief [of the Army Nurse Corps] serves during the pleasure of the Secretary, but not for more than four years, and may not be reappointed to the same position.
  - Reference: 10 U.S.C. § 3069(b) (2017)
- The Chief [of the Army Medical Specialist Corps] serves during the pleasure of the Secretary, but not for more than four years, and may not be reappointed.
  - Reference: 10 U.S.C. § 3070(b) (2017)
- There shall be a chaplain at the [Military] Academy. . .appointed by the President for a term of four years. . .The chaplain may be reappointed.
  - Reference: 10 U.S.C. § 4337 (2017)
- The persons designated by the President [to the Board of Visitors to the Academy] serve for three years each.
  - Reference: 10 U.S.C. § 4355(b) (2017)

*Staggered Terms:* N/A

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* If the Secretary of the Army dies, resigns, is removed from office, is absent, or is disabled, the person who is highest on the following list, and who is not absent or disabled, shall perform the duties of the Secretary until the President, under section 3347 of title 5, directs another person to perform those duties until the absence or disability ceases: the Under Secretary of the Army; the Assistant Secretaries of the Army, in the order prescribed by the Secretary of the Army and approved by the Secretary of Defense; the General Counsel of the Department of the Army; the Chief of Staff.

- Reference: 10 U.S.C. § 3017 (2017)

*Who is Head of Agency:* There is a Secretary of the Army, appointed. . .by the President, by and with the advice and consent of the Senate. . .The Secretary is the head of the Department of the Army.

- Reference: 10 U.S.C. § 3013(a)(1) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* Fees collected pursuant to paragraph (1) [rifle ranges] in connection with the use of a rifle range shall be credited to the appropriation available for the operation and maintenance of that rifle range and shall be available for the operation and maintenance of that rifle range.

- Reference: 10 U.S.C. § 4309(b)(2) (2017)
- Under regulations prescribed by the Secretary of the Army, the Superintendent of the Academy may (without regard to section 2601 of this title [regarding general gift funds] accept, hold, administer, invest, and spend any gift, devise, or bequest of personal

property of a value of \$20,000 or less made to the United States on the condition that such gift, devise, or bequest be used for the benefit of the Academy or any entity thereof.

- Reference: 10 U.S.C. § 4356 (2017)
- The Secretary of the Army may accept from a donor or donors a qualified guarantee for the completion of a major project for the benefit of the Academy.
  - Reference: 10 U.S.C. § 4357(a) (2017)
- The Secretary of the Army may authorize the Superintendent of the Academy to accept qualifying research grants under this section. . .The Secretary shall establish an account for administrating funds received as research grants under this section.
  - Reference: 10 U.S.C. § 4358 (2017)
- Notwithstanding section 1342 of title 31, the Secretary may accept from the Association funds, supplies, and services for the support of the athletic programs of the Academy. . . The Secretary may accept funds from the National Collegiate Athletic Association to support the athletic programs of the Academy. . .Any funds received by the Secretary under this section may be retained for use in support of the athletic programs of the Academy and shall remain available until expended.
  - Reference: 10 U.S.C. § 4362(c)-(e) (2017)
- The Secretary of the Army may authorize the Commandant of the United States Army War College to accept qualifying research grants. . .The Secretary shall establish an account for administering funds received as research grants under this section. The Commandant shall use the funds in the account in accordance with applicable provisions of the regulations and the terms and condition of the grants received.
  - Reference: 10 U.S.C. § 4417 (2017)
- The proceeds received from the sale of an article or service pursuant to a contract or other cooperative arrangement under this section [arrangements with non-Army entity to carry out military or commercial projects] shall be credited to the working capital fund that incurs the cost of manufacturing the article or performing the service.
  - Reference: 10 U.S.C. § 4544(e) (2017)
- The Secretary of the Army may charge a person a fee for providing the person with information from the United States Army Military History Institute that is requested by that person. . .Amounts received under subsection (a) for providing information in any fiscal year shall be credited to the appropriation or appropriations charged the costs of providing information to the public from the United States Army Military History Institute during that fiscal year.
  - Reference: 10 U.S.C. § 4595(d) (2017)
- The proceeds of sales of the following shall be paid into the Treasury to the credit of the appropriations out of which they were purchased, and are available for the purposes of that appropriation: exterior articles of uniform sold under section 4621 of this title; supplies and military publications sold to educational institutions under section 4627 of this title; fuel, oil, other supplies, and services for aircraft of a foreign military or air attaché sold under section 4626 of this title.
  - Reference: 10 U.S.C. § 4629 (2017)
- The Secretary of the Army may sell to an eligible purchaser described in subsection (c) ammunition or ammunition components that are excess, obsolete, or unserviceable and have not been demilitarized if the purchaser enters into an agreement, in advance, with

the Secretary to demilitarize the ammunition or components and to reclaim, recycle, or reuse the component parts or materials or the Secretary, or an official of the Department of the Army designated by the Secretary, approves the use of the ammunition or components proposed by the purchaser as being consistent with the public interest.

- Reference: 10 U.S.C. § 4687(a) (2017)
- Proceeds from the sale of recyclable munitions materials under this section shall be credited to an account that is specified as being for Army ammunition demilitarization from funds made available for the procurement of ammunition, to be available only for reclamation, recycling, and reuse of conventional military munitions (including research and development and equipment purchased for such purpose). Amounts credited under this subsection shall be available for obligation for the fiscal year during which the funds are so credited and for three subsequent fiscal years.
  - Reference: 10 U.S.C. § 4690(c) (2017)
- All franchise fees (and other monetary consideration) collected by the United States under subsection (c) [for cemetery concession contracts] shall be deposited into a special account established in the Treasury of the United States. The funds deposited in such account shall be available for expenditure by the Secretary of the Army, to the extent authorized and in such amounts as are provided in advance in appropriations Acts, to support activities at the Cemeteries. The funds deposited into the account shall remain available until expended.
  - Reference: 10 U.S.C. § 4727(d) (2017)
- The Secretary of the Army may accept for the United States a gift of land that he considers suitable and desirable for a permanent mobilization, training, or supply station and land that he considers suitable and desirable for an aviation field, if the gift is from a citizen of the United States and its terms authorize the use of the property by the United States for any purpose.
  - Reference: 10 U.S.C. § 4771 (2017)
- For each phase of the development of the [Heritage] Center [for the National Museum of the United States Army], the Secretary may accept funds and in-kind gifts, including services, construction materials, and equipment used in construction, from the Army Historical Foundation and other persons for the design and construction of such phase of the Center or permit the Army Historical Foundation to contract for the design and construction of such phase of the Center.
  - Reference: 10 U.S.C. § 4772(c)(2) (2017)
- Under regulations prescribed by the Secretary of the Army, the Commander of the United States Army Center of Military History may, without regard to section 2601 of this title, accept, hold, administer, invest, and spend any gift, devise, or bequest of personal property of a value of \$250,000 or less made to the United States if such gift, devise, or bequest is for the benefit of the National museum of the United States Army or the Center.
  - Reference: 10 U.S.C. § 4772(e)(1) (2017)
- Upon the Secretary's acceptance of the Center under subsection (c)(1) [Cyber Center for Education and Innovation-Home of the National Cryptologic Museum], there is established in the Treasury a fund to be known as the Cyber Center for Education and Innovation-Home of the National Cryptologic Museum Fund. . . The Fund shall consist of the following amounts: fees and user charges deposited by the Secretary under subsection

(d); any other amounts received by the Secretary which are attributable to the operation of the Center. Amounts in the Fund shall be available to the Secretary for the benefit and operation of the Center, including the costs of operation and the acquisition of books, manuscripts, works of art, historical artifacts, drawings, plans, models, and condemned or obsolete combat material. Amounts in the Fund shall be available without fiscal year limitation.

- Reference: 10 U.S.C. § 4781(e) (2017)

*Reporting Requirements:* The Secretary of Defense may waive the requirements in subsection (a) [regarding termination of the Superintendent of the United States Military Academy] for good cause. In each case in which such a waiver is granted for an officer, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a written notification of the waiver, with a statement of the reasons supporting the decision that the officer not retire, and a written notification of the intent of the President to nominate for reassignment.

- Reference: 10 U.S.C. § 3921(b) (2017)
- When seeking to establish degree granting authority under this section [degree granting authority for the United States Army Command and General Staff College], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a copy of the self-assessment questionnaire required by the Federal Policy Governing Granting of Academic Degrees by Federal Agencies, at the time the assessment is submitted to the Department of Education's National Advisory Committee on Institutional Quality and Integrity and the subsequent recommendation and rationale of the Secretary of Education regarding the establishment of the degree granting authority.
  - Reference: 10 U.S.C. § 4314(c)(1) (2017)
- Upon any modification or resignation of existing degree granting authority [of the Army Command and General Staff College], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the rationale for the proposed modification or resignation and any subsequent recommendation of the Secretary of Education on the proposed modification or resignation.
  - Reference: 10 U.S.C. § 4314(c)(2) (2017)
- The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing an explanation of any action by the appropriate academic accrediting agency or organization not to accredit the United States Army Command and General Staff College to award any new or existing degree.
  - Reference: 10 U.S.C. § 4314(c)(3) (2017)
- The Secretary of the Army shall biennially submit to the Congress a report that specifies the overall expenditures for programs and activities under this chapter and any progress made with respect to archiving financial self-sufficiency of the programs and activities.
  - Reference: 10 U.S.C. § 4316 (2017)
- When seeking to establish degree granting authority under this section [degree granting authority for the United States Army War College], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a copy of the self-assessment questionnaire required by the Federal Policy Governing Granting of Academic Degrees by Federal Agencies, at the time the assessment is submitted to the

Department of Education's National Advisory Committee on Institutional Quality and Integrity and the subsequent recommendation and rationale of the Secretary of Education regarding the establishment of the degree granting authority.

- Reference: 10 U.S.C. § 4321(c) (2017)
- Upon any modification or resignation of existing degree granting authority [of the Army War College], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the rationale for the proposed modification or resignation and any subsequent recommendation of the Secretary of Education on the proposed modification or resignation.
  - Reference: 10 U.S.C. § 4314(c)(2) (2017)
- The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing an explanation of any action by the appropriate academic accrediting agency or organization not to accredit the United States Army War College to award any new or existing degree.
  - Reference: 10 U.S.C. § 4321(c)(3) (2017)
- In any case in which an officer serving as Superintendent [of the Military Academy] is reassigned or retires before having complete three years' service as Superintendent, or otherwise leaves that position (other than due to death) without having completed three years' service in that position, the Secretary of the Army shall submit to Congress notice that such officer left the position of Superintendent without having completed three years' service in that position, together with a statement of the reasons why that officer did not complete three years service in that position.
  - Reference: 10 U.S.C. § 4333a(b) (2017)
- The Secretary of the Army may limit the number of cadets authorized to be appointed under this section to the number that can be adequately accommodated at the Academy, as determined by the Secretary after consulting with the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.
  - Reference: 10 U.S.C. § 4342(g) (2017)
- The Superintendent shall furnish to any Member of Congress, upon the written request of such Member, the name of the Congressman or other nominating authority responsible for the nomination of any named or identified person for appointment to the Academy.
  - Reference: 10 U.S.C. § 4342(h) (2017)
- Whenever the Secretary prescribes such an increase [in cadet strength], the Secretary shall submit to Congress a notice in writing of the increase.
  - Reference: 10 U.S.C. § 4342(j)(2) (2017)
- The Secretary of the Army may not accept a qualified guarantee under this section for the completion of a major project until after the expiration of 30 days following the date upon which a report of the facts concerning the proposed guarantee is submitted to Congress or, if earlier, the expiration of 14 days following the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title.
  - Reference: 10 U.S.C. § 4357(c) (2017)
- The Secretary of Defense shall transmit each such report [on sexual harassment and sexual violence at the Academy], together with the Secretary's comments on the report, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

- Reference: 10 U.S.C. § 4361(4)(B) (2017)
- The Secretary of the Army shall submit to Congress a notice of each agreement entered into under this section [coproduction agreements for technical data packages].
  - Reference: 10 U.S.C. § 4542(g)(1) (2017)
- The Secretary shall submit to Congress a semi-annual report on the operation of this section and of agreements entered into under this section [coproduction agreements for technical data packages].
  - Reference: 10 U.S.C. § 4542(g)(2) (2017)
- A full annual accounting of such expenses [for armament retooling and manufacturing support initiatives] for each fiscal year shall be provided to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives not later than March 30 of the following fiscal year.
  - Reference: 10 U.S.C. § 4553(e)(2) (2017)
- The Secretary of the Army shall submit to the congressional defense committees and the Committees on Veterans Affairs of the Senate and House of Representatives an annual budget request (and detailed justifications for the amount of the request) to fund administration, operation and maintenance, and construction related to the [Army National Military] Cemeteries.
  - Reference: 10 U.S.C. § 4721(e) (2017)
- Policy and procedures for reviewing and determining requests for exceptions to interment and inurnment eligibility policies. . . shall include a requirement, before granting the request for an exception, for notification of the Committees on Armed Services and the Committees on Veterans Affairs of the Senate and the House of Representatives.
  - Reference: 10 U.S.C. § 4722(a)(2) (2017)
- Not later than 90 days after receiving a report or recommendations from the advisory committee [on Arlington National Cemetery], the Secretary of the Army shall submit the report or recommendations to the congressional defense committees and the Committees on Veterans Affairs of the Senate and House of Representatives and include such comments and recommendations of the Secretary as the Secretary considers appropriate.
  - Reference: 10 U.S.C. § 4723(d) (2017)
- Not later than 120 days after the completion of an inspection [of the Army National Military Cemeteries] conducted under subsection (a), the Secretary of the Army shall submit to the congressional defense committees a report containing the results of the inspection and recommendations and a plan for corrective actions to be taken in response to the inspection.
  - Reference: 10 U.S.C. § 4726(b) (2017)

*Review Commissions:* None

*Advisory Commissions:* The Secretary of the Army shall appoint an advisory committee on Arlington National Cemetery. The Secretary of the Army shall advise and consult with the advisory committee with respect to the administration of Arlington National Cemetery, the erection of memorials at the cemetery and master planning for the cemetery.

- Reference: 10 U.S.C. § 4723 (2017)

*Action Require Outside Approval:* The authority provided under subsection (a) [to serve warrants and other processes] shall be exercised in accordance with guidelines prescribed by the Secretary of the Army and approved by the Secretary of Defense and the Attorney General and any other applicable guidelines prescribed by the Secretary of the Army, the Secretary of Defense, or the Attorney General.

- Reference: 10 U.S.C. § 4027(c) (2017)
- A degree may not be conferred under this section [degree granting authority for the United States Army Command and General Staff College] unless the Secretary of Education has recommended approval of the degree in accordance with the Federal Policy Governing Granting of Academic Degrees by Federal Agencies and the United States Army Command and General Staff College is accredited by the appropriate civilian academic accrediting agency or organization to award the degree, as determined by the Secretary of Education.
  - Reference; 10 U.S.C. § 4314(b) (2017)
- A degree may not be conferred under this section [degree granting authority for the United States Army War College] unless the Secretary of Education has recommended approval of the degree in accordance with the Federal Policy Governing Granting of Academic Degrees by Federal Agencies and the United States Army War College is accredited by the appropriate civilian academic accrediting agency or organization to award the degree, as determined by the Secretary of Education.
  - Reference: 10 U.S.C. § 4321(b) (2017)
- The Secretary of the Army, with the approval of the Secretary of Defense, shall determine eligibility for interment or inurnment in the [Army National Military] Cemeteries. The Secretary of the Army, with the approval of the Secretary of Defense, shall establish policy and procedures for reviewing and determining requests for exceptions to interment and inurnment eligibility policy.
  - Reference: 10 U.S.C. § 4722(a) (2017)

*Legislative Veto:* None

*Adjudication:* None

### **Defense Acquisition Regulations System**

*Date of Creation:* Unknown

*Statute:* Not established in U.S. Code

### **Defense Advanced Research Projects Agency**

*Date of Creation:* February 7, 1958<sup>116</sup>

*Statute:* Not established in U.S. Code

### **Defense Commissary Agency**

*Date of Creation:* May 15, 1990<sup>117</sup>

*Statute:* Not established in U.S. Code

### **Defense Contract Audit Agency**

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<sup>116</sup> Department of Defense Director 5015.15 (1958).

<sup>117</sup> Deputy Secretary of Defense memorandum.

*Date of Creation:* July 1, 1965  
*Statute:* Not established in U.S. Code

### **Defense Contract Management Agency**

*Date of Creation:* 1990<sup>118</sup>  
*Statute:* Not established in U.S. Code

### **Defense Finance and Accounting Service**

*Date of Creation:* 1991  
*Statute:* Not established in U.S. Code

### **Defense Health Agency**

*Date of Creation:* October 1, 2013  
*Statute:* 10 U.S.C. § 1073c (2017)

*Authorizing Language:* The term “Defense Health Agency” means the Defense Agency established pursuant to Department of Defense Directive 5136.13 or such successor Defense Agency.

- Reference: 10 U.S.C. § 1073c(e)(2) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* There is in the Defense Health Agency an Assistant Director for Health Care Administration. The Assistant Director shall be a career appointee within the Department. . .the Assistant Director shall be appointed from among individuals who have equivalent education and experience as a chief executive officer leading a large, civilian health care system.

- Reference: 10 U.S.C. § 1073c(b) (2017)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The Director of the Defense Health Agency shall be responsible for the administration of each military medical treatment facility. . .The responsibilities of the Director shall include the following: ensuring that the Defense Health Agency meets the operational needs of the commanders of the combatant commands; coordinating with the military departments to ensure that the staffing at the military medical treatment facilities supports readiness requirements for members of the armed forces and health care personnel.

- Reference: 10 U.S.C. § 1073c (2017)

*OMB Review:* None

*Independent Litigating:* None

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<sup>118</sup> Established as the Defense Contract Management Command.

*Independent Sources of Funding:* None  
*Reporting Requirements:* None  
*Review Commissions:* None  
*Advisory Commissions:* None  
*Action Require Outside Approval:* None  
*Legislative Veto:* None  
*Adjudication:* None

**Defense Information Systems Agency**

*Date of Creation:* May 12, 1960  
*Statute:* Not established in U.S. Code

**Defense Intelligence Agency**

*Date of Creation:* October 1, 1961  
*Statute:* Not established in U.S. Code  
*Authorizing Language:* None  
*Commissioners/Board Members:* None  
*Quorum Rules:* N/A

*Agency Specific Personnel:*<sup>119</sup> The Secretary of Defense may be regulation establish a merit pay system for such employees of the Defense Intelligence Agency as the Secretary considers appropriate.

- Reference: 10 U.S.C. § 1621 (2017)

*Limitation on Appointment:* None  
*Party Balancing:* N/A  
*Fixed Terms:* None  
*Staggered Terms:* N/A  
*For Cause:* N/A

*Serve President:* None  
*Continuation until Replacement:* None  
*Acting Service Rules:* None

*Who is Head of Agency:* Before submitting a recommendation to the President regarding the appointment of an individual to the position of Director of the Defense Intelligence Agency, the Secretary of Defense shall consult with the Director of National Intelligence regarding the recommendation.

- Reference: 10 U.S.C. § 201(a) (2017)

*OMB Review:* None  
*Independent Litigating:* None  
*Independent Sources of Funding:* None  
*Reporting Requirements:* None  
*Review Commissions:* None  
*Advisory Commissions:* None  
*Action Require Outside Approval:* None  
*Legislative Veto:* None  
*Adjudication:* None

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<sup>119</sup> The Defense Intelligence Agency's employees are not considered employees for the purposes of Title 5. 5 U.S.C. § 5102(a)(1)(ix); (2) (2017).

### **Defense Legal Services Agency**

*Date of Creation:* 1981

*Statute:* Not established in U.S. Code

### **Defense Logistics Agency**

*Date of Creation:* November 1, 1949<sup>120</sup>

*Statute:* Not established in U.S. Code

### **Defense Media Activity**

*Date of Creation:* May 26, 1942<sup>121</sup>

*Statute:* Not established in U.S. Code

### **Defense POW/MIA Accounting Agency**

*Date of Creation:* February 10, 1996<sup>122</sup>

*Statute:* 10 U.S.C. §§ 1501-1513 (2017)

*Authorizing Language:* The Secretary of Defense shall designate a single organization within the Department of Defense to have responsibility for Department matters relating to missing persons from past conflicts, including accounting for missing persons and persons whose remains have not been recovered from the conflict in which they were lost. The organization designated under this paragraph shall be a Defense Agency or other entity of the Department of Defense outside the military departments and is referred to in this chapter as the “designated Defense Agency.”

- Reference: 10 U.S.C. § 1501(a)(1) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The head of the organization designated under this paragraph is referred to in this chapter as the “designated Agency Director.”

- Reference: 10 U.S.C. § 1501(a)(1)(C) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

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<sup>120</sup> Established as the Defense Printing Service.

<sup>121</sup> Established as Armed Forces Radio Service.

<sup>122</sup> National Defense Authorization Act for Fiscal Year 1996, Pub. L. No. 104-106, 110 Stat. 186 (1996).

*Advisory Commissions:* None  
*Action Require Outside Approval:* None  
*Legislative Veto:* None  
*Adjudication:* None

**Defense Security Cooperation Agency**

*Date of Creation:* September 1, 1971<sup>123</sup>  
*Statute:* Not established in U.S. Code

**Defense Security Service**

*Date of Creation:* January 1, 1972<sup>124</sup>  
*Statute:* Not established in U.S. Code

**Defense Technical Information Center**

*Date of Creation:* June, 1945<sup>125</sup>  
*Statute:* Not established in U.S. Code

**Defense Technology Security Administration**

*Date of Creation:* Unknown  
*Statute:* Not established in U.S. Code

**Defense Threat Reduction Agency**

*Date of Creation:* October 1, 1998  
*Statute:* Not established in U.S. Code

**DOD Education Activity**

*Date of Creation:* November 1, 1978<sup>126</sup>  
*Statute:* 20 U.S.C. §§ 921-932 (2017)

*Authorizing Language:* The defense dependents' education system is operated through the field activity of the Department of Defense known as the Department of Defense Education Activity.

- Reference: 20 U.S.C. § 922(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* That activity is headed by a Director, who is a civilian.

- Reference: 20 U.S.C. § 922(a) (2017)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

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<sup>123</sup> Department of Defense Directive 5105.38.

<sup>124</sup> Established as the Defense Investigative Service.

<sup>125</sup> Established as the Air Documents Research Center

<sup>126</sup> Education Amendments of 1978, Pub. L. No. 95-561, 92 Stat. 2143 (1978).

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* That activity is headed by a Director, who is . . . selected by the Secretary of Defense.

- Reference: 20 U.S.C. § 922(a) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* Any amounts received by the Secretary in payment of the fees [for summer school] shall be available to the Department of Defense for defraying the costs of conducting summer school programs under this subsection.

- Reference: 20 U.S.C. § 921(d)(3) (2017)
- Except as otherwise provided under subsection (c), any child permitted to enroll in a school of the defense dependents' education system under this section shall be required to pay tuition at a rate determined by the Secretary of Defense, which shall not be less than the rate necessary to defray the average cost of the enrollment of children in the system under this section. Amounts received under paragraph (1) shall be available to the defense dependents' education system to assist in defraying the cost of enrollment of children in the system under this section.
  - Reference: 20 U.S.C. § 923(b) (2017)

*Reporting Requirements:* Whenever the Department of Defense Education Activity is reorganized in a manner that affects the defense dependents' education system, the Secretary of Defense shall submit a report to the Congress describing the reorganization.

- Reference: 20 U.S.C. § 922(d)(2) (2017)
- The results of each annual assessment under subsection (a) [of the defense dependents' education system] with respect to an individual enrolled in the defense dependents' education system shall be made available to the sponsor of such individual, and summary results of each such annual assessment shall be made available to Members of Congress.
  - Reference: 20 U.S.C. § 924(b) (2017)
- The Director shall submit to the Congress any report submitted to him under subsection (a)(2) describing the results of a study carried out pursuant to subsection (a)(1) [comprehensive study of the entire defense dependents education system], together with the recommendations, if any, of the contractor for legislation or any increase in funding needed to improve the defense dependents' education system.
  - Reference: 20 U.S.C. § 930(c) (2017)

*Review Commissions:* None

*Advisory Commissions:* The Director shall provide for the establishment of an advisory committee for each school in the defense dependents' education system. An advisory committee for a school shall advise the principal or superintendent of the school with respect to the operation of the school, may make recommendations with respect to curriculum and budget matters and, except as provided under paragraph (2), shall advise the local military commander with respect to problems concerning dependents' education within the jurisdiction of the commander.

- Reference: 20 U.S.C. § 928(a) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **DOD Test Resource Management Center**

*Date of Creation:* December 2, 2002<sup>127</sup>

*Statute:* 10 U.S.C. § 196 (2017)

*Authorizing Language:* The Secretary of Defense shall establish within the Department of Defense under section 191 of this title a Department of Defense Test Resource Management Center.

- Reference: 10 U.S.C. § 196(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* At the head of the Center shall be a Director, selected by the Secretary from among individuals who have substantial experience in the field of test and evaluation.

- Reference: 10 U.S.C. § 196(b)(1) (2017)
- There shall be a Deputy Director of the Center, selected by the Secretary from among individuals who have substantial experience in the field of test and evaluation.
- Reference: 10 U.S.C. § 196(b)(2) (2017)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* The Deputy Director shall act for, and exercise the powers of, the Director when the Director is disabled or the position of the Director is vacant.

- Reference: 10 U.S.C. § 196(b)(2) (2017)

*Who is Head of Agency:* At the head of the Center shall be a Director, selected by the Secretary.

- Reference: 10 U.S.C. § 196(b)(1) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* Not later than 60 days after the date on which the report is submitted under paragraph (3) [Director submits strategic plan for Department of Defense test and evaluation resources], the Secretary of Defense shall transmit to the Committee on Armed Services and Committee on Appropriations of the Senate and the Committee on Armed Services and Committee on Appropriations of the House of Representatives the report, together with any comments with respect to the report that the Secretary considers appropriate.

- Reference: 10 U.S.C. § 196(d)(4) (2017)
- The Secretary of Defense shall, not later than March 31 of the year preceding the fiscal year for which such budgets are proposed [Director certified proposed budgets for test and evaluation responsibilities], submit to Congress a report on those proposed budgets

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<sup>127</sup> Bob Stump National Defense Authorization Act for Fiscal Year 2003, Pub. L. No. 107-314, 116 Stat. 2458 (2002).

which the Director has not certified under paragraph (2)(A) to be adequate. The report shall include the following matters: a discussion of the actions that the Secretary proposed to take, together with any recommended legislation that the Secretary considers appropriate to address the inadequacy of the proposed budgets; any additional comments that the Secretary considers appropriate regarding the inadequacy of the proposed budgets.

- Reference: 10 U.S.C. § 196(e)(3) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Joint Improvised-Threat Defeat Agency**

*Date of Creation:* February 14, 2006<sup>128</sup>

*Statute:* Not established in U.S. Code

### **Missile Defense Agency**

*Date of Creation:* May 20, 1974<sup>129</sup>

*Statute:* Not established in U.S. Code

### **National Geospatial-Intelligence Agency**

*Date of Creation:* September 23, 1996<sup>130</sup>

*Statute:* 10 U.S.C. §§ 441-467 (2017)

*Authorizing Language:* The National Geospatial-Intelligence Agency is a combat support agency of the Department of Defense and has significant national missions.

- Reference: 10 U.S.C. § 441(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None<sup>131</sup>

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

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<sup>128</sup> Department of Defense Directive 2000.19E.

<sup>129</sup> Established as the Ballistic Missile Defense Organization.

<sup>130</sup> Established as the National Imagery and Mapping Agency. National Defense Authorization Act for Fiscal Year 1997, Pub. L. No. 104-201, 110 Stat. 2422 (1996). Congress redesignated the agency as the National Geospatial-Intelligence Agency in 2003. National Defense Authorization Act for Fiscal Year 2004, Pub. L. No. 108-136, 117 Stat. 1392 (2003).

<sup>131</sup> The National Geospatial-Intelligence Agency's employees are not considered employees for the purposes of Title 5. 5 U.S.C. § 5102(a)(1)(x); (2) (2017).

*Who is Head of Agency:* The Director of the National Geospatial-Intelligence Agency is the head of the agency.

- Reference: 10 U.S.C. § 441(b) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **National Reconnaissance Office**

*Date of Creation:* September 6, 1961<sup>132</sup>

*Statute:* 50 U.S.C. § 3041a (2017)

*Authorizing Language:* None

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* There is a Director of the National Reconnaissance Office. The Director of the National Reconnaissance Office shall be appointed by the President, by and with the advice and consent of the Senate. The Director of the National Reconnaissance Office shall be the head of the National Reconnaissance Office.

- Reference: 50 U.S.C. § 3041a (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **National Security Agency**

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<sup>132</sup> [http://www.nro.gov/history/csnr/programs/NRO\\_Brief\\_History.pdf](http://www.nro.gov/history/csnr/programs/NRO_Brief_History.pdf).

*Date of Creation:* October 24, 1952<sup>133</sup>  
*Statute:* 50 U.S.C. §§ 3601-3618 (2017)

*Authorizing Language:* None

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:*<sup>134</sup> Officers and employees of the National Security Agency who are citizens or nationals of the United States may be granted additional compensation, in accordance with regulations which shall be prescribed by the Secretary of Defense, not in excess of additional compensation authorized by section 5941 of Title 5, for employees whose rates of basic compensation are fixed by statute.

- Reference: 50 U.S.C. § 3604 (2017)
- In order to maintain necessary capability in foreign language skills and related abilities needed by the National Security Agency, the Director, without regard to subchapter IV of chapter 55 of Title 5, may provide special monetary or other incentives to encourage civilian cryptologic personnel of the Agency to acquire or retain proficiency in foreign languages or special related abilities needed by the Agency.
  - Reference: 50 U.S.C. § 3608(b)(1) (2017)
- In order to attract individuals to become members of the cryptologic linguist reserve, the Director, without regard to subchapter IV of chapter 55 of Title 5, may provide special monetary incentives to individuals eligible to become members of the reserve who agree to become members of the cryptologic linguist reserve and to acquire or retain proficiency in foreign languages or special related abilities.
  - Reference: 50 U.S.C. § 3608(c)(2) (2017)
- The Secretary of Defense (or his designee) may by regulation establish a personnel system for senior civilian cryptologic personnel in the National Security Agency to be known as the Senior Cryptologic Executive Service. . . Except as otherwise provided in subsection (a), the Secretary of Defense (or his designee) may make applicable to the Senior Cryptologic Executive Service any of the provisions of Title 5 applicable to applicants for or members of the Senior Executive Service and appoint, promote, and assign individuals to positions established within the Senior Cryptologic Executive Service without regard to the provisions of Title 5 governing appointments and other personnel actions in the competitive service.
  - Reference: 50 U.S.C. § 3610(a) (2017)
- The Secretary of Defense (or his designee) may by regulation establish a merit pay system for such employees of the National Security Agency as the Secretary of Defense (or his designee) considers appropriate). The merit pay system shall be designed to carry out purposes consistent with those set forth in section 5401(a) of Title 5.
  - Reference: 50 U.S.C. § 3610(b) (2017)

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

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<sup>133</sup> National Security Council Intelligence Directive 9 (Oct. 24, 1952).

<sup>134</sup> The National Security Agency's employees are not considered employees for the purposes of Title 5. 5 U.S.C. § 5102(a)(1)(vi); (2) (2017).

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* There is a Director of the National Security Agency.. the Director of the National Security Agency shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be the head of the National Security Agency and shall discharge such functions and duties as are provided by this chapter and otherwise by law or executive order.

- Reference: 50 U.S.C. § 3602 (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The Director may collect charges for evaluating, certifying, or validating information assurance products under the National Information Assurance Program or successor program. . The appropriation or fund bearing the cost of the service for which charges are collected under the program referred to in subsection (a) may be reimbursed, or the Director may require advance payment subject to such adjustment on completion of the work as may be agreed upon. Amounts collected under this section shall be credited to the account or accounts from which costs associated with such amounts have been or will be incurred, to reimburse or offset the direct costs of the program referred to in subsection (a).

- Reference: 50 U.S.C. § 3618 (2017)

*Reporting Requirements:* Regulations issued pursuant to subsection (b)(1) [allowances and benefits to those engaged in special cryptologic activities] shall be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate before such regulations take effect.

- Reference: 50 U.S.C. § 3507(e) (2017)
- Regulations issued pursuant to this section [language training and cryptologic linguist programs] shall be submitted to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate before such regulations take effect.
- Reference: 50 U.S.C. § 3608(h) (2017)

*Review Commissions:* None

*Advisory Commissions:* There is established the National Security Agency Emerging Technologies Panel. The Panel is a standing panel of the National Security Agency. . The Panel shall study and assess, and periodically advise the Director on, the research, development, and application of existing and emerging science and technology advances, advances in encryption, and other topics.

- Reference: 50 U.S.C. § 3617 (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## Navy

*Date of Creation:* March 27, 1794<sup>135</sup>

*Statute:* 10 U.S.C. §§ 5001-7921 (2017)

*Authorizing Language:* The Department of the Navy is separately organized under the Secretary of the Navy. It operates under the authority, direction, and control of the Secretary of Defense.

- Reference: 10 U.S.C. § 5011 (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* The Secretary of the Navy may employ as many civilians as professors, instructors, and lecturers at a school of the Naval War College or of the Marine Corps University as the Secretary considers necessary. The compensation of persons employed under this section shall be as prescribed by the Secretary.

- Reference: 10 U.S.C. § 7478 (2017)

*Limitation on Appointment:* There is a Secretary of the Navy, appointed from civilian life. The Secretary shall, to the greatest extent practicable, be appointed from among persons most highly qualified for the position by reason of background and experience, including persons with appropriate management or leadership experience. . . A person may not be appointed as Secretary of the Navy within five years after relief from active duty as a commissioned officer of a regular component of an armed force.

- Reference: 10 U.S.C. § 5013(a) (2017)
- The head of the office or other entity established or designated by the Secretary to conduct the auditing function [of the Office of the Secretary] shall have at least five years of professional experience in accounting or auditing.
  - Reference: 10 U.S.C. § 5014(c)(5)(A) (2017)
- The position of regional director within such office [Office of the Secretary], and any other position within such office or entity the primary responsibilities of which are to carry out supervisory functions, may not be held by a member of the armed forces on active duty.
  - Reference: 10 U.S.C. § 5014(c)(5)(B) (2017)
- There is an Under Secretary of the Navy, appointed from civilian life.
  - Reference: 10 U.S.C. § 5015(a) (2017)
- There are four Assistant Secretaries of the Navy. They shall be appointed from civilian life.
  - Reference: 10 U.S.C. § 5016(a) (2017)
- The Assistant Secretary [for Research, Development, and Acquisition] shall have a Principal Military Deputy, who shall be an officer of the Navy or Marine Corps on active duty. The Principal Military Deputy shall be appointed from among officers who have significant experience in the areas of acquisition and program management.
  - Reference: 10 U.S.C. § 5016(b)(4)(B0) (2017)
- There is a General Counsel of the Department of the Navy, appointed from civilian life.
  - Reference: 10 U.S.C. § 5019(a) (2017)
- The Naval Inspector General shall be detailed from officers of the active-duty list in the line of the Navy serving in grades above captain.
  - Reference: 10 U.S.C. § 5020(a) (2017)

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<sup>135</sup> 1 Stat. 350 (1794).

- The Chief of Naval Operations shall be appointed. . .from the flag officers of the Navy.
  - Reference: 10 U.S.C. § 5033(a)(1) (2017)
- There is a Vice Chief of Naval Operations, appointed. . .from officers on the active-duty list in the line of the Navy serving in grades above captain and eligible to command at sea.
  - Reference: 10 U.S.C. § 5035(a) (2017)
- The Commandant [of the Marine Corps] shall be appointed. . .from the general officers of the Marine Corps. . .The President may appoint an officer as Commandant of the Marine Corps only if the officer has had significant experience in joint duty assignments and such experience includes at least one full tour of duty in a joint duty assignment (as defined in section 664(f) of this title) as a general officer. The president may waive paragraph (2) in the case of an officer if the President determines such action is necessary in the national interest.
  - Reference: 10 U.S.C. § 5043(a) (2017)
- There is an Assistant Commandant of the Marine Corps, appointed by the President. . .from officers on the active-duty list of the Marine Corps not restricted in the performance of duty.
  - Reference: 10 U.S.C. § 5044(a) (2017)
- There are in the Headquarters, Marine Corps, not more than seven Deputy Commandants, detailed by the Secretary of the Navy from officers on the active-duty list of the Marine Corps.
  - Reference: 10 U.S.C. § 5045 (2017)
- An officer of the Marine Corps who is a judge advocate and member of the bar of a Federal court or the highest court of a State or territory and who has had at least eight years experience in legal duties as a commissioned officer may be appointed by the President. . .as Staff Judge Advocate to the Commandant of the Marine Corps.
  - Reference: 10 U.S.C. § 5046(a) (2017)
- The Surgeon General of the Navy shall be appointed by the President. . .from officers on the active-duty list of the Navy in any corps of the Navy Medical Department.
  - Reference: 10 U.S.C. § 5137(a) (2017)
- An officer of the Dental Corps shall be detailed as the Chief of Dental Corps.
  - Reference: 10 U.S.C. § 5138(a) (2017)
- The Chief of Naval Personnel shall be appointed by the President. . .from officers on the active-duty list in the line of the Navy not below the grade of commander.
  - Reference: 10 U.S.C. § 5141(a) (2017)
- An officer on the active-duty list in the line of the Navy not below the grade of commander may be detailed as Deputy Chief of Naval Personnel.
  - Reference: 10 U.S.C. § 5141(b) (2017)
- The Chief of Chaplains shall be appointed by the President. . .from officers of the Chaplain Corps in the grade of commander or above who are serving on active duty and who have served on active duty in the Chaplain Corps for at least eight years.
  - Reference: 10 U.S.C. § 5142(b) (2017)
- The Secretary of the Navy may detail as the Deputy Chief of Chaplains an officer of the Chaplain Corps in the grade of commander or above who is on active duty and who has served on active duty in the Chaplain Corps for at least eight years.

- Reference: 10 U.S.C. § 5142a (2017)
- The President. . .shall appoint the Chief of Navy Reserve from flag officers of the Navy who have had at least 10 years of commissioned service. The Secretary of Defense may not recommend an officer to the President for appointment as Chief of Navy Reserve unless the officer is recommended by the Secretary of the Navy and is determined by the Chairman of the Joint Chiefs of Staff, in accordance with criteria and as a result of a process established by the Chairman, to have significant joint duty experience.
  - Reference: 10 U.S.C. § 5143(b) (2017)
- The President. . .shall appoint the Commander, Marine Forces Reserve, from general officers of the Marine Corps (as defined in section 5001(2)) who have had at least 10 years of commissioned service. The Secretary of Defense may not recommend an officer to the President for appointment as Commander, Marine Forces Reserve, unless the officer is recommended by the Secretary of the Navy and is determined by the Chairman of the Joint Chiefs of Staff, in accordance with criteria and as a result of a process established by the Chairman, to have significant joint duty experience.
  - Reference: 10 U.S.C. § 5144(b) (2017)
- The Judge Advocate General shall be appointed. . .from judge advocates of the Navy or the Marine Corps who are members of the bar of a Federal court or the highest court of a State and who have had at least eight years of experience in legal duties as commissioned officers.
  - Reference: 10 U.S.C. § 5148(b) (2017)
- There is a Deputy Judge Advocate General of the Navy who is appointed by the President from among judge advocates of the Navy and Marine Corps who have the qualifications prescribed for the Judge Advocate General.
  - Reference: 10 U.S.C. § 5149(a)(1) (2017)
- The officers of vessels of the United States shall in all cases be citizens of the United States.
  - Reference: 10 U.S.C. § 6019 (2017)
- The President of the Naval Postgraduate School shall be one of the following: an active-duty officer of the Navy or Marine Corps in a grade not below the grade of captain or colonel, respectively, who is assigned or detailed to such position; a civilian individual, including an individual who was retired from the Navy or Marine Corps in a grade not below captain, or colonel, respectively who has the qualifications appropriate to the position of President and is selected by the Secretary of the Navy as the best qualified from among candidates for the position in accordance with the criteria specified in paragraph (4); a process determined by the Secretary; and other factors the Secretary considers essential.
  - Reference: 10 U.S.C. § 7042(a)(1) (2017)
- There is at the Naval Postgraduate School the civilian position of Provost and Academic Dean.
  - Reference: 10 U.S.C. § 7043(a) (2017)
- The Superintendent of the Naval Observatory shall be detailed from officers in the line of the Navy serving in the grade of captain or above.
  - Reference: 10 U.S.C. § 7395(b) (2017)

*Party Balancing:* N/A

*Fixed Terms:* The Chief of Naval Operations shall be appointed for a term of four years. . .He serves at the pleasure of the President. In time of war or during a national emergency declared by Congress, he may be reappointed for a term of not more than four years.

- Reference: 10 U.S.C, § 5033(a)(1) (2017)
- The Commandant [of the Marine Corps] shall be appointed for a term of four years. . .He serves at the pleasure of the President. In time of war or during a national emergency declared by Congress, he may be reappointed for a term of not more than four years.
  - Reference: 10 U.S.C. § 5043(a)(1) (2017)
- The Surgeon General of the Navy shall be appointed by the President. . .for a term of four years.
  - Reference: 10 U.S.C. § 5137(a) (2017)
- The Chief of Naval Personnel shall be appointed. . .for a term of four years.
  - Reference: 10 U.S.C. § 5141(a) (2017)
- An officer appointed as Chief of Chaplains shall be appointed for a term of four years. However, the President may terminate or extend the appointment at any time.
  - Reference: 10 U.S.C. § 5142(c) (2017)
- The Chief of Navy Reserve is appointed for a term determined by the Chief of Naval Operations, normally four years, but may be removed for cause at any time. An officer serving as Chief of Navy Reserve may be reappointed for one additional term of up to four years.
  - Reference: 10 U.S.C. § 5143(c) (2017)
- The Commander, Marine Forces Reserve, is appointed for a term determined by the Commandant of the Marine Corps, normally four years, but may be reappointed for one additional term of up to four years.
  - Reference: 10 U.S.C. § 5144(c) (2017)
- The Judge Advocate General shall be appointed. . .for a term of four years.
  - Reference: 10 U.S.C. § 5148(b) (2017)
- An officer who is detailed to the position of Superintendent [of the Naval Academy] shall be so detailed for a period of not less than three years.
  - Reference: 10 U.S.C. § 6951a (2017)
- The persons designated by the President [to serve on the Board of Visitors to the Naval Academy] serve for three years each except that any member whose term of office has expired shall continue to serve until his successor is appointed.
  - Reference: 10 U.S.C. § 6968(b) (2017)
- An individual selected for the position of President of the Naval Postgraduate School under paragraph (1)(B) shall serve in that position for a term of not more than five years and may be continued in that position for an additional term of up to five years.
  - Reference: 10 U.S.C. § 7042(a)(3) (2017)
- The Provost and Academic dean shall be appointed, to serve for periods of not more than five years.
  - Reference: 10 U.S.C. § 7043(a) (2017)

*Staggered Terms:* N/A

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* If the Secretary of the Navy dies, resigns, is removed from office, is absent, or is disabled, the person who is highest on the following list, and who is not absent or disabled, shall perform the duties of the Secretary until the President, under section 3347 of title 5, directs another person to perform those duties or until the absence or disability ceases: The Under Secretary of the Navy; The Assistant Secretaries of the Navy, in the order prescribed by the Secretary of the Navy and approved by the Secretary of Defense; the General Counsel of the Department of the Navy, the Chief of Naval Operations, the Commandant of the Marine Corps.

- Reference: 10 U.S.C. § 5017 (2017)

*Who is Head of Agency:* There is a Secretary of the Navy, appointed. . .by the President, by and with the advice and consent of the Senate. . .The Secretary is the head of the Department of the Navy.

- Reference: 10 U.S.C. § 5013(a)(1) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* Money received from sales under this section [sales of exterior articles of uniform] shall be covered into the Treasury to the credit of the appropriation out of which the articles were purchased.

- Reference: 10 U.S.C. § 6156(b) (2017)
- The Superintendent of the Naval Academy shall operate the Naval Academy activities referred to in subsection (b) as a nonappropriated fund instrumentality under the jurisdiction of the Navy. The nonappropriated fund instrumentality required under subsection (a) shall consist of the following Naval Academy activities: the midshipmen's store; the barber shop; the cobbler shop; the tailor shop; the dairy (if any); the laundry. The Superintendent of the Naval Academy shall administer a separate nonappropriated fund account for each of the Naval Academy activities included in the nonappropriated fund instrumentality required under subsection (a). The Superintendent shall credit all revenue received from a Naval Academy activity referred to in subsection (b) to the account administered with respect to that activity under subsection (c), and amounts so credited shall be available for operating expenses of that activity.
  - Reference: 10 U.S.C. § 6971 (2017)
- The Secretary of the Navy may accept, hold, administer, and spend any gift or bequest of personal property and may accept, hold, and administer any loan of personal property other than money that is made on the condition that it be used for the benefit of, or of use in connection with, the Naval Academy or the Naval Academy Museum, its collection, or its services. Gifts and bequests of money and the proceeds from the sales of property received as gifts shall be deposited in the Treasury in the fund called "United States Naval Academy Gift and Museum Fund." The Secretary may disburse funds deposited under this subsection for the benefit or use of the Naval Academy (including the Naval Academy Museum) subject to the terms of the gift or bequest. . .Upon the request of the Secretary of the Navy, the Secretary of the Treasury may invest, reinvest, or retain investments of money or securities comprising any part of the United States Naval Academy Gift and Museum Fund in securities of the United States or in securities guaranteed as to principal and interest by the United States. The interest and benefits accruing from those securities shall be deposited to the credit of the United States Naval Academy Gift and Museum Fund and may be disbursed as provided in this section.

- Reference: 10 U.S.C. § 6973 (2017)
- Subject to subsection (c), the Secretary of the Navy may accept from a donor or donors a qualified guarantee for the completion of a major project for the benefit of the Naval Academy.
  - Reference: 10 U.S.C. § 6975(a) (2017)
- Subject to paragraph (2), to the extent that the termination or reduction of operations at the Naval Academy dairy farm permit, the Secretary of the Navy may lease the real property containing the dairy farm, and any improvements and personal property thereon, to such persons and under such terms as the Secretary considers appropriate. . .All money received from a lease entered into under subsection (b) shall be retained by the Superintendent of the Naval Academy and shall be available to cover expenses related to the property described in subsection (a), including reimbursing nonappropriated fund instrumentalities of the Naval Academy.
  - Reference: 10 U.S.C. § 6976 (2017)
- The Secretary of the Navy may authorize the Superintendent of the Academy to accept qualifying research grants under this section.. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the Academy for a scientific, literary, or educational purpose. . .The Secretary shall establish an account for administering funds received as research grants under this section. The Superintendent shall use the funds in the account in accordance with applicable regulations and the terms and conditions of the grants received.
  - Reference: 10 U.S.C. § 6977 (2017)
- Notwithstanding section 1342 of title 31, the Secretary may accept from the [Naval Academy Athletic] Association funds, supplies, and services for the support of the athletic and physical fitness programs of the Naval Academy. . .The Secretary may accept funds from the National Collegiate Athletic Association to support the athletic and physical fitness programs of the Naval Academy. . .Notwithstanding section 2260(d) of this title, funds received under this section may be retained for use in support of athletic and physical fitness programs of the Naval Academy and shall remain available until expended.
  - Reference: 10 U.S.C. §6981 (2017)
- Amounts received by the school for instruction of students enrolled under this section [defense industry civilians] shall be retained by the school to defray the costs of such instruction.
  - Reference: 10 U.S.C. § 7049(g) (2017)
- The Secretary of the Navy may authorize the President of the Naval Postgraduate School to accept qualifying research grants. . .The Secretary shall establish an account for administering funds received as research grants under this section. The President of the Naval Postgraduate School shall use the funds in the amount in accordance with applicable provisions of the regulations and the terms and conditions of the grants received.
  - Reference: 10 U.S.C. § 7050 (2017)
- The Secretary of the Navy may authorize the President of the Naval War College to accept qualifying research grants. . .The Secretary shall establish an account for administering funds received as research grants under this section. The President of the

Naval War College shall use the funds in the amount in accordance with applicable provisions of the regulations and the terms and conditions of the grants received.

- Reference: 10 U.S.C. § 7103 (2017)
- The Secretary of the Navy may authorize the President of the Marine Corps University to accept qualifying research grants. . .The Secretary shall establish an account for administering funds received as research grants under this section. The President of the Marine Corps University shall use the funds in the amount in accordance with applicable provisions of the regulations and the terms and conditions of the grants received.
  - Reference: 10 U.S.C. § 7104 (2017)
- The Secretary of the Navy may accept gifts for use in providing recreation, amusement, and contentment for enlisted members of the naval service. The fund “Ships’ Stores Profits, Navy” shall be credited with these gifts.
  - Reference: 10 U.S.C. § 7220 (2017)
- The Secretary of the Navy may accept and care for such gifts of silver, colors, books, or other articles of equipment or furniture as, in accordance with custom, are made to vessels of the Navy.
  - Reference: 10 U.S.C. § 7221 (2017)
- The Secretary of the Navy, under such regulations as he prescribes, may sell to a merchant ship such fuel and other supplies as may be required to meet its necessities if the ship is unable to procure the supplies from other sources at its present location and to proceed to the nearest port where they may be obtained without endangering the safety of the ship, the health and comfort of tis personnel, or the safe condition of the property carried on it. Sales under this section shall be at prices as the Secretary considers reasonable. Payment shall be made on a cash basis or on such other basis as will reasonably assure prompt payment. Amounts received from such a sale shall, unless otherwise directed by another provision of law, be credited to the current appropriation concerned and are available for the same purposes as that appropriation.
  - Reference: 10 U.S.C. § 7228 (2017)
- Amounts received as proceeds from the stripping of a vessel pursuant to this subsection shall be credited to appropriations available for the procurement of services needed for such stripping and for environmental remediation required for the use of the vessel for experimental purposes. Amounts received in excess of amounts need for reimbursement of those costs shall be deposited into the account from which the stripping and environmental remediation expenses were incurred and shall be available for stripping and environmental remediation of other vessels to be used for experimental purposes.
  - Reference: 10 U.S.C. § 7306a(b)(3) (2017)
- When the Secretary of the Navy sells an obsolete service craft or an obsolete boat, or exchanges such a craft or boat in a transaction for which a similar craft or boat is acquired, the Secretary may retain the proceeds of the sale or the exchange allowance from the exchange, as the case may be, and apply the proceeds of sale or the exchange allowance for any of the following purposes: for payment, in whole or in part, for a similar service craft or boat acquired as replacement, as authorized by section 503 of title 40; for reimbursement, to the extent practicable, of the appropriate accounts of the Navy for the full costs of preparation of such obsolete craft or boat for such sale or exchange; for deposit to the special account established under subsection (b) to be available in accordance with that subsection. Amounts retained under subsection (a) that are not

applied as provided in paragraph (1) or (2) of that subsection shall be deposited into a special account. Amounts in the account shall be available under subsection (c) without regard to fiscal year limitation.

- Reference: 10 U.S.C. § 7312 (2017)
- Funds received in a fiscal year under subsection (c) [support for transfers of decommissioned vessels] shall be credited to the appropriation available for such fiscal year for operation and maintenance for the office of the Navy managing inactive ships, shall be merged with other sums in the appropriation that are available for such office, and shall be available for the same purposes and period as the sums with which merged.
  - Reference: 10 U.S.C. § 7316(d) (2017)
- Amounts received under this chapter [salvage facilities] shall be credited to appropriations for maintaining naval salvage facilities. However, any amount received under this chapter in any fiscal year in excess of naval salvage costs incurred by the Navy during that fiscal year shall be deposited into the general fund of the Treasury.
  - Reference: 10 U.S.C. § 7364 (2017)
- Money received for laundry work performed by Marine Corps post laundries shall be used to pay the cost of maintenance and operation of those laundries. Any amount remaining at the end of the fiscal year after the cost has been so paid shall be deposited in the Treasury to the credit of the appropriation from which the cost of operating the laundries is paid.
  - Reference: 10 U.S.C. § 7581(a) (2017)
- Except as provided in subsection (b) [relating to legal duties to release information], the Secretary of the Navy may charge a person a fee for providing the person with information from the United States Naval Historical Center or the Marine Corps Historical Center that is requested by that person. . . Amounts received. . . shall be credited to the appropriation or appropriations charged the costs of providing information to the public from that historical center during that fiscal year.
  - Reference: 10 U.S.C. § 7582 (2017)
- Amounts received under this section [admiralty claims against the United States] for damage or loss to property operated and maintained with funds from a Department of Defense working capital fund or account shall be credited to that fund or account.
  - Reference: 10 U.S.C. § 7623(b)(2)(B) (2017)

*Reporting Requirements:* The Secretary of Defense shall transmit the annual report of the Commander, Marine Forces Reserve, under paragraph (1) to Congress, together with such comments on the report as the Secretary considers appropriate. The report shall be transmitted at the same time each year that the annual report of the Secretary under section 113 of this title is submitted to Congress.

- Reference: 10 U.S.C. § 5144(d)(2) (2017)
- No change in the Department of the Navy policy limiting service on submarines to males, as in effect on May 10, 2000 may take effect until the Secretary of Defense submits to Congress written notice of the proposed change and a period of 30 days of continuous session of Congress (excluding any day on which either House of Congress is not in session) expires following the date on which the notice is received.
  - Reference: 10 U.S.C. § 6035(a) (2017)
- No funds available to the Department of the Navy may be expended to reconfigure any existing submarine or to design any new submarine to accommodate female crew

members until the Secretary of Defense submits to Congress written notice of the proposed reconfiguration or design and a period of 30 days of continuous session of Congress (excluding any day on which either House of Congress is not in session) expires following the date on which the notice is received.

- Reference: 10 U.S.C. § 6035(b) (2017)
- The Secretary of Defense may waive the requirement in subsection (a) [regarding retirement of the Superintendent of the Naval Academy] for good cause. In each case in which such a waiver is granted for an officer, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a written notification of the waiver, with a statement of the reasons supporting the decision that the officer not retire, and a written notification of the intent of the President to nominate the officer for reassignment.
  - Reference: 10 U.S.C. § 6371(b) (2017)
- In any case in which an officer serving as Superintendent is reassigned or retires before having completed three years service as Superintendent, or otherwise leaves that position (other than due to death) without having completed three years service in that position, the Secretary of the Navy shall submit to Congress notice that such officer left the position of Superintendent without having completed three years service in that position, together with a statement of the reasons why that officer did not complete three years service in that position.
  - Reference: 10 U.S.C. § 6951a(c) (2017)
- The Superintendent of the Naval Academy shall furnish to any Member of Congress, upon the written request of such Member, the name of the Congressman or other nominating authority responsible for the nomination of any named or identified person for appointment to the Academy.
  - Reference: 10 U.S.C. § 6954(f) (2017)
- Whenever the Secretary prescribes such an increase [in midshipmen strength limit], the Secretary shall submit to Congress a notice in writing of the increase. The notice shall statement of amount of the increase in the midshipmen strength limit and the new midshipmen strength limit, as so increased, and the amount of the increase in the Senior Navy Reserve Officers' Training Corps enrollment under each of section 2104 and 2107 of this title.
  - Reference: 10 U.S.C. § 6954(h)(2) (2017)
- The Secretary of the Navy may not accept a qualified guarantee under this section for the completion of a major project until the expiration of 30 days following the date upon which a report of the facts concerning the proposed guarantee is submitted to Congress or, if earlier, the expiration of 14 days following the date on which a copy of the report is provided in an electronic medium pursuant to section 480 of this title.
  - Reference: 10 U.S.C. § 6975(c) (2017)
- The Secretary of Defense shall notify Congress of any change made by the Naval Academy in the amount of a charge or fee authorized under this subsection [charges and fees for attendance at the Naval Academy].
  - Reference: 10 U.S.C. § 6979(b) (2017)
- The Secretary of Defense shall transmit each such report [on sexual harassment and sexual violence at the Naval Academy], together with the Secretary's comments on the

report, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

- Reference: 10 U.S.C. § 6980(4)(B) (2017)
- When seeking to establish degree granting authority under this section [for the Naval Postgraduate School], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a copy of the self-assessment questionnaire required by the Federal Policy Governing Granting of Academic Degrees by Federal Agencies, at the time the assessment is submitted to the Department of Education's National Advisory Committee on Institutional Quality and Integrity and the subsequent recommendations and rationale of the Secretary of Education regarding the establishment of the degree granting authority.
  - Reference: 10 U.S.C. § 7048(c)(1) (2017)
- Upon any modification or redesignation of existing degree granting authority [of the Naval Postgraduate School], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the rationale for the proposed modification or redesignation and any subsequent recommendation of the Secretary of Education on the proposed modification or redesignation.
  - Reference: 10 U.S.C. § 7048(c)(2) (2017)
- The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing an explanation of any action by the appropriate academic accrediting agency or organization not to accredit the Naval Postgraduate School to award any new or existing degree.
  - Reference: 10 U.S.C. § 7048(c)(3) (2017)
- When seeking to establish degree granting authority under this section [for the Naval War College], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a copy of the self assessment questionnaire required by the Federal Policy Governing Granting of Academic Degrees by Federal Agencies, at the time the assessment is submitted to the Department of Education's National Advisory Committee on Institutional Quality and Integrity and the subsequent recommendations and rationale of the Secretary of Education regarding the establishment of the degree granting authority.
  - Reference: 10 U.S.C. § 7101(c)(1) (2017)
- Upon any modification or redesignation of existing degree granting authority [of the Naval War College], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the rationale for the proposed modification or redesignation and any subsequent recommendation of the Secretary of Education on the proposed modification or redesignation.
  - Reference: 10 U.S.C. § 7101(c)(2) (2017)
- The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing an explanation of any action by the appropriate academic accrediting agency or organization not to accredit the Naval War College to award any new or existing degree.
  - Reference: 10 U.S.C. § 7101(c)(3) (2017)
- When seeking to establish degree granting authority under this section [for the Marine Corps University], the Secretary of Defense shall submit to the Committees on Armed

Services of the Senate and House of Representatives a copy of the self assessment questionnaire required by the Federal Policy Governing Granting of Academic Degrees by Federal Agencies, at the time the assessment is submitted to the Department of Education's National Advisory Committee on Institutional Quality and Integrity and the subsequent recommendations and rationale of the Secretary of Education regarding the establishment of the degree granting authority.

- Reference: 10 U.S.C. § 7102(c)(1) (2017)
- Upon any modification or redesignation of existing degree granting authority [of the Marine Corps University], the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the rationale for the proposed modification or redesignation and any subsequent recommendation of the Secretary of Education on the proposed modification or redesignation.
  - Reference: 10 U.S.C. § 7102(c)(2) (2017)
- The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing an explanation of any action by the appropriate academic accrediting agency or organization not to accredit the Marine Corps University to award any new or existing degree.
  - Reference: 10 U.S.C. § 7102(c)(3) (2017)
- A contract may be entered into under subsection (a) [contracts with private shipyards] with respect to a specific vessel only if the Secretary is specifically authorized by law to enter into such a contract with respect to that vessel. As part of a request to Congress for enactment of any such authorization by law, the Secretary of the Navy shall provide to Congress the Secretary's findings under subsection (g).
  - Reference: 10 U.S.C. § 7233(b) (2017)
- The Secretary shall submit notice of any waiver under paragraph (1) [of the applicability of law with respect to contracts for vessels] to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.
  - Reference: 10 U.S.C. § 7233(g)(2) (2017)
- Not later than 24 months after the date of the enactment of this section and every three years thereafter, the Secretary of the Navy shall report to Congress and the public on monitoring undertaken pursuant to paragraph (1) [monitoring research within the Southern Sea Otter Military Readiness Areas].
  - Reference: 10 U.S.C. § 7235(e)(2) (2017)
- A naval vessel not subject to subsection (a) [larger or newer vessels] may be disposed of to another nation (whether by sale, lease, grant, barter, transfer, or otherwise) in accordance with applicable provisions of law but only after the Secretary of the Navy notifies the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives in writing of the proposed disposition and 30 days of continuous session of Congress have expired following the date on which such notice is sent to those committees.
  - Reference: 10 U.S.C. § 7307(b) (2017)
- The Secretary of the Navy shall submit to Congress each year, at the time that the President's budget is submitted to Congress that year under section 1105(a) of title 31, a report listing all repairs and maintenance performed on any covered naval vessel that has undergone work for the repair of the vessel in any shipyard outside the United States of

Guam (in this section referred to as “foreign shipyard”) during the fiscal year preceding the fiscal year in which the report is submitted.

- Reference: 10 U.S.C. § 7310(c) (2017)
- If a claim under this section [admiralty claims against the United States] is settled or compromised for more than \$15,000,000, the Secretary shall certify it to Congress.
  - Reference: 10 U.S.C. § 7622(b) (2017)
- The Secretary of the Navy shall. . .[report] annually to Congress on the [National Oceanic Partnership Program].
  - Reference: 10 U.S.C. § 7901(b)(2)(B) (2017)

*Review Commissions:* None

*Advisory Commissions:* The Secretary of the Navy may appoint a Naval Research Advisory Committee consisting of not more than 15 civilians preeminent in the fields of science, research, and development work. . .The Committee shall meet at such times as the Secretary specifies to consult with and advise the Chief of Naval Operations and the Chief of Naval Research.

- Reference: 10 U.S.C. § 5024 (2017)

*Action Require Outside Approval:* A degree may not be conferred under this section unless the Secretary of Education has recommended the approval of the degree in accordance with the Federal Policy Governing Granting of Academic Degrees by Federal Agencies and the Naval Postgraduate School is accredited by the appropriate civilian academic accrediting agency or organization to award the degree, as determined by the Secretary of Education.

- Reference: 10 U.S.C. § 7048(b) (2017)
- A degree may not be conferred under this section unless the Secretary of Education has recommended the approval of the degree in accordance with the Federal Policy Governing Granting of Academic Degrees by Federal Agencies and the Naval War College is accredited by the appropriate civilian academic accrediting agency or organization to award the degree, as determined by the Secretary of Education.
  - Reference: 10 U.S.C. § 7101(b) (2017)
- A degree may not be conferred under this section unless the Secretary of Education has recommended the approval of the degree in accordance with the Federal Policy Governing Granting of Academic Degrees by Federal Agencies and the Marine Corps University is accredited by the appropriate civilian academic accrediting agency or organization to award the degree, as determined by the Secretary of Education.
  - Reference: 10 U.S.C. § 7102(b) (2017)

*Legislative Veto:* None

*Adjudication:* None

### **Office of Economic Adjustment**

*Date of Creation:* 1961

*Statute:* Not established in U.S. Code

### **Pentagon Force Protection Agency**

*Date of Creation:* May 3, 2002

*Statute:* Not established in U.S. Code

## **Under Secretary for Acquisition, Technology, and Logistics**

*Date of Creation:* 1986

*Statute:* 10 U.S.C. § 133 (2017)

*Authorizing Language:* There is an Under Secretary of Defense for Acquisition, Technology, and Logistics.

- Reference: 10 U.S.C. § 133(a)(2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* There is an Under Secretary of Defense for Acquisition, Technology, and Logistics, appointed from civilian life. . .The Under Secretary shall be appointed from among persons who have an extensive management background.

- Reference: 10 U.S.C. § 133(a) (2017)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* There is an Under Secretary of Defense for Acquisition, Technology, and Logistics, appointed. . .by the President, by and with the advice and consent of the Senate.

- Reference: 10 U.S.C. § 133(a) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **Under Secretary for Personnel and Readiness**

*Date of Creation:* November 30, 1993<sup>136</sup>

*Statute:* 10 U.S.C. § 136 (2017)

*Authorizing Language:* There is an Under Secretary of Defense for Personnel and Readiness.

- Reference: 10 U.S.C. § 136(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* There is an Under Secretary of Defense for Personnel and Readiness, appointed from civilian life.

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<sup>136</sup> National Defense Authorization Act for Fiscal Year 1994, Pub. L. No. 103-160, 107 Stat. 1547 (1993).

- Reference: 10 U.S.C. § 136(a) (2017)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* There is an Under Secretary of Defense for Personnel and Readiness, appointed from civilian life by the President, by and with the advice and consent of the Senate.

- Reference: 10 U.S.C. § 136(a) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Washington Headquarters Services**

*Date of Creation:* October 1, 1977

*Statute:* Not established in U.S. Code

## **DEPARTMENT OF EDUCATION**

*Date of Creation:* October 17, 1979<sup>137</sup>

*Statute:* 20 U.S.C. §§ 3401-3510 (2017)

*Authorizing Language:* There is established an executive department to be known as the Department of Education.

- Reference: 20 U.S.C. § 3411 (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* The Secretary shall appoint. . .as the Liaison for Community and Junior Colleges a person who has attained an associated degree from a community or junior college or has been employed in a community or junior college setting for not less than 5 years.

- Reference: 20 U.S.C. § 3412(i)(2) (2017)
- The Deputy Assistant Secretary for International and Foreign Language Education shall be an individual with extensive background and experience in international and foreign language education.

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<sup>137</sup> Department of Education Organization Act, Pub. L. No. 96-88, 93 Stat. 669 (1979)

- Reference: 20 U.S.C. § 3415(b)(1) (2017)
- The Secretary shall appoint . . . a Liaison for Proprietary Institutions of Higher Education who shall be a person who has attained a certificate or degree from a proprietary institution of higher education or has been employed in a proprietary institution setting for not less than 5 years.
  - Reference: 20 U.S.C. § 3426(b) (2017)
- [The] coordinator for the outlying areas, who shall be a person with substantial experience in the operation of Federal programs in the outlying areas.
  - Reference: 20 U.S.C. § 3427(b) (2017)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Deputy Secretary shall act as Secretary.

- Reference: 20 U.S.C. § 3412(a)(1) (2017)

*Who is Head of Agency:* The Department shall be administered, in accordance with the provisions of this chapter, under the supervision and direction of a Secretary of Education. The Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 20 U.S.C. § 3411 (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2), (3), and (4) of subsection (a) {all for employees and dependents stationed at remote locations] shall be at prices reflecting reasonable value as determined by the Secretary. Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of the cost of such work or services or used to refund excess sums when necessary.

- Reference: 20 U.S.C. § 3478 (2017)
- Proceeds from reimbursements under this section [use of facilities under the custody and control of the Department] may be credited to the appropriation of funds that bear or will bear all or part of the cost of such equipment or facilities provided or to refund excess sums when necessary.
  - Reference: 20 U.S.C. § 3479(c) (2017)
- The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department copyrights, patents, and applications for patents designs, processes and manufacturing data; licenses under copyrights, patents, and applications for patents; and releases, before suit is brought, for past infringement of patents or copyrights.
  - Reference: 20 U.S.C. § 3480 (2017)
- The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, and to accept donations of services, for the

purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary.

- Reference: 20 U.S.C. § 3481 (2017)
- The Secretary, with the approval of the Director of the Office of Management and Budget, is authorized to establish for the Department a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interests of economy and efficiency. . . The capital of the fund shall consist of any appropriations made for the purpose of providing working capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund. . . Such funds shall be reimbursed in advance from available funds of agencies and offices in the Department, or from other sources, for supplies and services at rates that will approximate the expense of operation, including the accrual of annual leave and depreciation of equipment. The fund shall also be credited with receipts from the sale or exchange of property and receipts in payment for loss or damage to property owned by the fund.

- Reference: 20 U.S.C. § 3483 (2017)

*Reporting Requirements:* The Assistant Secretary for Civil Rights shall make an annual report to the Secretary, the President, and the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems as to which such Office has made a recommendation for corrective action and as to which, in the judgment of the Assistant Secretary, adequate progress is not being made.

- Reference: 20 U.S.C. § 3413(b)(1) (2017)
- The Secretary, through the Office of Correctional Education established under subsection (c) of this section, shall. . . provide an annual report to Congress on the progress of the Office of Correctional Education and the status of correctional education in the United States.
- Reference: 20 U.S.C. § 3423a(d) (2017)
- The Secretary shall, as soon as practicable after the close of each fiscal year, make a single, comprehensive report to the President for transmission to the Congress on the activities of the Department during such fiscal year.

- Reference: 20 U.S.C. § 3486(a) (2017)

*Review Commissions:* None

*Advisory Commissions:* There is established a Federal Interagency Committee on Education. . . The Committee shall assist the Secretary in providing a mechanism to assure that the procedures and actions of the Department and other Federal departments and agencies are fully coordinated.

- Reference: 20 U.S.C. § 3424(a) (2017)
- The Secretary. . . shall establish advisory mechanisms designed to assure that scientists and engineers are fully involved in the development, implementation, and review of science education programs.
- Reference: 20 U.S.C. § 3444(b) (2017)

*Action Require Outside Approval:* The Secretary, with the approval of the Director of the Office of Management and Budget, is authorized to established for the Department a working capital fund.

- Reference: 20 U.S.C. § 3483(a) (2017)

*Legislative Veto:* None

*Adjudication:* None

### **Federal Student Aid**

*Date of Creation:* Unknown<sup>138</sup>

*Statute:* Not established in U.S. Code

### **Office of Elementary and Secondary Education**

*Date of Creation:* October 17, 1979<sup>139</sup>

*Statute:* 20 U.S.C. § 3414 (2017)

*Authorizing Language:* There shall be in the Department an Office of Elementary and Secondary Education.

- Reference: 20 U.S.C. § 3414 (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* There shall be in the Department an office of Elementary and Secondary Education, to be administered by the Assistant Secretary for Elementary and Secondary Education appointed under section 3412(b) of this title.

- Reference: 20 U.S.C. § 3414 (2017)
- There shall be in the Department an Assistant Secretary for Elementary and Secondary Education. . . Each of the Assistant Secretaries. . . shall be appointed by the President, by and with the advice and consent of the Senate.
  - Reference: 20 U.S.C. § 3412(b)(1)(A) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

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<sup>138</sup> The Higher Education Act of 1965 authorized Federal Student Aid, but did not explicitly create an office in the Department of Education. See Pub. L. No. 89-329, 79 Stat. 1219 (1965).

<sup>139</sup> Department of Education Organization Act, Pub. L. No. 96-88, 93 Stat. 669 (1979)

*Legislative Veto:* None

*Adjudication:* None

### **Office of English Language Acquisition**

*Date of Creation:* October 17, 1979<sup>140</sup>

*Statute:* 20 U.S.C. § 3420 (2017)

*Authorizing Language:* There shall be in the Department an Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students.

- Reference: 20 U.S.C. § 3420 (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* There shall be in the Department an Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students, to be administered by a Director of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students, who shall be appointed by the Secretary.

- Reference: 20 U.S.C. § 3420 (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Office of Innovation and Improvement**

*Date of Creation:* Unknown

*Statute:* Not established in U.S. Code

### **Office of Postsecondary Education**

*Date of Creation:* October 17, 1979<sup>141</sup>

*Statute:* 20 U.S.C. § 3415 (2017)

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<sup>140</sup> Department of Education Organization Act, Pub. L. No. 96-88, 93 Stat. 669 (1979)

<sup>141</sup> Department of Education Organization Act, Pub. L. No. 96-88, 93 Stat. 669 (1979)

*Authorizing Language:* There shall be in the Department an Office of Postsecondary Education.

- Reference: 20 U.S.C. § 3415 (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* The Deputy Assistant Secretary for International and Foreign Language Education shall be an individual with extensive background and experience in international and foreign language education.

- Reference: 20 U.S.C. § 3415(b)(1) (2017)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* There shall be in the Department an Office of Postsecondary Education, to be administered by the Assistant Secretary for Postsecondary Education appointed under section 3412(b) of this title.

- Reference: 20 U.S.C. § 3415 (2017)
- There shall be in the Department. . .an Assistant Secretary for Postsecondary Education. . .Each of the Assistant Secretaries. . .shall be appointed by the President, by and with the advice and consent of the Senate.
- Reference: 20 U.S.C. § 3412(b) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Office of Special Education and Rehabilitation**

*Date of Creation:* October 17, 1979<sup>142</sup>

*Statute:* 20 U.S.C. § 3417 (2017)

*Authorizing Language:* There shall be in the Department an Office of Special Education and Rehabilitative Services.

- Reference: 20 U.S.C. § 3417 (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

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<sup>142</sup> Department of Education Organization Act, Pub. L. No. 96-88, 93 Stat. 669 (1979)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* There shall be in the Department an Office of Special Education and Rehabilitative Services, to be administered by the Assistant Secretary for Special Education and Rehabilitative Services appointed under section 3412(b) of this title.

- Reference: 20 U.S.C. § 3417 (2017)
- There shall be in the Department. . .an Assistant Secretary for Special Education and Rehabilitative Services. . .Each of the Assistant Secretaries. . .shall be appointed by the President, by and with the advice and consent of the Senate.
  - Reference: 20 U.S.C. § 3412(b) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **DEPARTMENT OF ENERGY**

*Date of Creation:* August 4, 1977<sup>143</sup>

*Statute:* 42 U.S.C. §§ 7111-7385s-16

*Authorizing Language:* There is established at the seat of government an executive department to be known as the Department of Energy.

- Reference: 42 U.S.C. § 7131 (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* In addition to the number of positions which may be placed at GS-16, GS-17, and GS-18 under section 5108 of Title 5, under existing law, or under this chapter, and to the extent the Secretary deems such action necessary to the discharge of his functions, he may appoint not more than two hundred of the scientific, engineering, professional and administrative personnel without regard to the civil service laws and may fix the compensation of such personnel not in excess of the maximum rate payable for GS-18 of the General Schedule under section 5332 of Title 5.

- Reference: 42 U.S.C. § 7231(d) (2017)
- All positions in the Department which the Secretary determines are devoted to intelligence and intelligence-related activities of the United States Government are

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<sup>143</sup> Department of Energy Organization Act, Pub. L. No. 95-91, 91 Stat. 565 (1977)

excepted from the competitive service, and the individuals who occupy such positions as of August 14, 1991, shall, while employed in such positions, be exempt from the competitive service.

- Reference: 42 U.S.C. § 7231(f) (2017)

*Limitation on Appointment:* The Under Secretary for Science shall be appointed from among persons who have extensive background in scientific or engineering fields and are well qualified to manage the civilian research and development programs of the Department.

- Reference: 42 U.S.C. § 7132(b)(3) (2017)
- The Under Secretary for Nuclear Security shall be appointed from among persons who have extensive background in national security, organizational management, and appropriate technical fields and are well qualified to manage the nuclear weapons, nonproliferation, and materials disposition programs of the National Nuclear Security Administration in a manner that advances and protects the national security of the United States.
  - Reference: 42 U.S.C. § 7132(c)(2) (2017)
- The Chairman and members of the [Federal Energy Regulatory Commission] shall be individuals who, by demonstrated ability, background, training, or experience, are specially qualified to assess fairly the needs and concerns of all interests affected by Federal energy policy.
  - Reference: 42 U.S.C. § 7134 (2017)
- The Administrator shall be a person who, by reason of professional background and experience, is specially qualified to manage an energy information system.
  - Reference: 42 U.S.C. § 7135(a)(1) (2017)
- Such [Economic Regulatory] Administrator shall be, by demonstrated ability, background, training, or experience, an individual who is specially qualified to assess fairly the needs and concerns of all interests affected by Federal energy policy.
  - Reference: 42 U.S.C. § 7136(a) (2017)
- The Secretary shall select the Director of the Office [of Counterintelligence] from among individuals who have substantial expertise in matters relating to counterintelligence.
  - Reference: 42 U.S.C. § 7144b(b)(2) (2017)
- The Secretary shall select the Director of the Office [of Intelligence] from among individuals who have substantial expertise in matters relating to foreign intelligence.
  - Reference: 42 U.S.C. § 7144c(b)(2) (2017)
- The Director [of Science, Engineering, and Mathematics Education] shall be an individual, who by reason of professional background and experience, is specially qualified to advise the Under Secretary on all matters pertaining to science, engineering, and mathematics education at the Department.
  - Reference: 42 U.S.C. § 7381a(b)(2) (2017)

*Party Balancing:* None

*Fixed Terms:* Members [of the Federal Energy Regulatory Commission] shall hold office for a term of 5 years.

- Reference: 42 U.S.C. § 7171(b)(1) (2017)

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* The Deputy Secretary shall act for and exercise the functions of the Secretary during the absence or disability of the Secretary or in the event the office of Secretary becomes vacant.

- Reference: 42 U.S.C. § 7132 (2017)

*Who is Head of Agency:* There shall be at the head of the Department a Secretary of Energy . . . , who shall be appointed by the President by and with the advice and consent of the Senate.

- Reference: 42 U.S.C. § 7131 (2017)

*OMB Review:* In each annual authorization and appropriation request under this chapter, the Secretary shall identify the portion thereof intended for the support of the Commission and include a statement by the Commission showing the amount requested by the Commission in its budgetary presentation to the Secretary and the Office of Management and Budget and an assessment of the budgetary needs of the Commission. Whenever the Commission submits to the Secretary, the President, or the Office of Management and Budget, any legislative recommendation or testimony, or comments on legislation, prepared for submission to Congress, the Commission shall concurrently transmit a copy thereof to the appropriate committees of Congress.

- Reference: 42 U.S.C. § 7171(j) (2017)

*Independent Litigating:* Except as provided in section 518 of Title 28, relating to litigation before the Supreme Court, attorneys designated by the Chairman of the [Federal Energy Regulatory] Commission may appear for, and represent the Commission in, any civil action brought in connection with any function carried out by the Commission pursuant to this chapter or as otherwise authorized by law.

- Reference: 42 U.S.C. § 7171(i) (2017)
- The Attorney General may authorize any attorney of the Department to conduct any civil litigation of the Department in any Federal court except the Supreme Court.
  - Reference: 42 U.S.C. § 7192(c) (2017)

*Independent Sources of Funding:* In operating the National Atomic Museum, the Secretary of energy may accept and use donations of money or gifts pursuant to section 7262 of this title, if such gifts or money are designated in a written document signed by the donor as intended for the museum, and such donations or gifts are determined by the Secretary to be suitable and beneficial for use by the museum.

- Reference: 42 U.S.C. § 7142(c)(1)(A) (2017)
- In operating the National Atomic Museum, the Secretary of Energy may. . . operate a retail outlet on the premises of the museum for the purpose of selling or distributing mementos replicas of memorabilia, literature, materials, and other items of an informative, educational, and tasteful nature relevant to the contents of the museum and exhibit, perform, display, and publish information and materials concerning museum mementos, items, memorabilia, and replicas thereof in any media or place anywhere in the world, at reasonable fees or charges where feasible and appropriate, to substantially cover costs. The net proceeds of activities authorized under subparagraphs (B) and (C) of paragraph (1) may be used by the National Atomic Museum for activities of the museum.
  - Reference: 42 U.S.C. § 7142(c)(1) (2017)
- To carry out the activities of the [American] Museum [of Science and Energy], the Secretary may accept and dispose of any gift, devise, or bequest of services or property,

real or personal that is designated in a written document by the person making the gift, devise, or bequest as intended for the Museum and determined by the Secretary to be suitable and beneficial for use by the Museum.

- Reference: 42 U.S.C. § 7142b(1) (2017)
- To carry out the activities of the Museum, the Secretary may operate a retail outlet on the premises of the Museum for the purpose of selling or distributing items (including mementos, food, educational materials, replicas, and literature) that are relevant to the contents of the Museum and informative, educational, and tasteful; collect reasonable fees where feasible and appropriate; exhibit, perform, display, and publish materials and information of or relating to the Museum in any media or place; consistent with guidelines approved by the Secretary, lease space on the premises of the Museum at reasonable rates for uses consistent with such guidelines; and use the proceeds of activities under this section to pay the costs of the Museum.
  - Reference: 42 U.S.C. § 7142b (2017)
- Except as provided in paragraph (2) and beginning in fiscal year 1987 and in each fiscal year thereafter, the Federal Energy Regulatory Commission shall, using the provisions of this section and authority provided by other laws, assess and collect fees and annual charges in any fiscal year in amounts equal to all of the costs incurred by the Commission in that fiscal year.
  - Reference: 42 U.S.C. § 7178 (2017)
- The furnishing of medical treatment under paragraph (1) of subsection (a) of this section and the furnishing of services and supplies under paragraphs (2) and (3) of subsection (a) of this section [to employees and dependents stationed at remote locations] shall be at prices reflecting reasonable value as determined by the Secretary. Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Secretary to pay directly the cost of such work or services, to repay or make advances to appropriations of funds which will initially bear all or a part of such costs, or to refund excess sums when necessary. Such payments may be credited to a working capital fund otherwise established by law, including the fund established pursuant to section 7263 of this title, and used under the law governing such fund, if the fund is available for use by the Department for performing the work or services for which payment is received,
  - Reference: 42 U.S.C. § 7258 (2017)
- In carrying out his functions, the Secretary, under such terms, at such rates, and for such periods not exceeding five years, as he may deem to be in the public interest, is authorized to permit the use by public and private agencies, corporations, associations, or other organizations or by individuals of any real property, or any facility, structure, or other improvement thereon, under the custody of the Secretary for Department purposes. . . Proceeds from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Secretary or the head of the agency or instrumentality of the United States involved, as the case may be, to pay directly the costs of the equipment, or facilities provided, to repay or make advances to appropriations or funds which do or will initially bear all or part of such costs, or to refund excess sums when necessary, except that such proceeds may be credited to a working capital fund otherwise established by law, including the fund established pursuant to section 7263 of this title, and used under

the law governing such fund, if the fund is available for use for providing the equipment or facilities involved.

- Reference: 42 U.S.C. § 7259 (2017)
- The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department: copyrights, patents, and applications for patents, designs, processes, and manufacturing data; licenses under copyrights, patents, and applications for patents; and releases, before suit is brought, for past infringement of patents or copyrights.
  - Reference: 42 U.S.C. § 7261 (2017)
- The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interests of economy and efficiency, including such services as a central supply service for stationery or other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its agencies; central messenger, mail, telephone, and other communication services; office space, central services for document reproduction, and for graphics and visual aids, and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital (which appropriations are hereby authorized) and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of agencies and offices in the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. . . There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which he determines will be performed through the fund.
  - Reference: 42 U.S.C. § 7263 (2017)
- All funds collected by the Western Area Power Administration from the sale of power and related services from the Falcon and Amistad Dams that are applicable to the repayment of the annual expenses of the hydroelectric facilities of these Dams and associated Western Area Power Administration activities in this and subsequent fiscal years shall be credited to this account as discretionary offsetting collections for the sole purpose of funding such expenses, with such funds remaining available until expended.
  - Reference: 42 U.S.C. § 7276g (2017)
- The Secretary is authorized to accept non-Federal funds to finance education activities described in subsection (a) of this section [relating to laboratory cooperative science centers and other authorized education activities].
  - Reference: 42 U.S.C. § 7381b(c) (2017)
- There is hereby established on the books of the Treasury a fund to be known as the “Energy Employees Occupational Illness Compensation Fund.” The compensation fund shall consist of the following amounts: amounts appropriated to the compensation fund pursuant to the authorization of appropriations in section 7384g(b) of this title; amounts transferred to the compensation fund under subsection (c) of this section. Upon the

exhaustion of amounts in the compensation fund attributable to the authorization of appropriations in section 7384g(b) of this title, the Secretary of the Treasury shall transfer directly to the compensation fund from the General Fund of the Treasury, without further appropriation, such amounts as are further necessary to carry out the compensation program. Subject to subsection (e) [barring administrative costs] of this section, amounts in the compensation fund shall be used to carry out the compensation program. . Amounts in the compensation fund shall be invested in accordance with section 9702 of Title 31, and any interest on, and proceeds from, any such investment shall be credited to and become a part of the compensation fund.

- Reference: 42 U.S.C. § 7384e (2017)

*Reporting Requirements:* Not later than March 1 each year, the Director of the Office [of Counterintelligence] shall submit a report on the status and effectiveness of the counterintelligence programs and activities at each Department facility during the preceding year. Each such report shall be submitted to the following: . . .the Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives; the Committee on Armed Services and the Select Committee on Intelligence of the Senate.

- Reference: 42 U.S.C. § 7144b(d)(1) (2017)
- Pursuant to the procedures specified in section 7174 of this title and except as provided in paragraph (2), the Commission shall have jurisdiction to consider any proposal by the Secretary to amend the regulation required to be issued under section 753(a) of Title 15 which is required by section 757 or 760a of Title 15 to be transmitted by the President to, and reviewed by, each House of Congress, under section 6421 of this title. In the event that the President determines that an emergency situation of overriding national importance exists and requires the expeditious promulgation of a rule described in paragraph (1), the President may direct the Secretary to assume sole jurisdiction over the promulgation of such rule, and such rule shall be transmitted by the President to, and reviewed by, each House of Congress under section 757 or 760a of Title 15, and section 6421 of this title.
  - Reference: 42 U.S.C. § 7172(c) (2017)
- The Secretary shall annually submit to the Congress a report on amounts retained and amounts used under this subsection [relating to retention and use of property rentals].
  - Reference: 42 U.S.C. § 7256(f) (2017)
- If the Secretary fails to make the decision within such 150-day period [on whether to waive any or all of the Government's property rights in inventions and discoveries], the Secretary shall submit to the Committees on Armed Services of the House of Representatives and the Senate, within 10 days after the end of the 150-day period, a report on the reasons for such failure. . .The Secretary shall, at the end of each 30-day period after submission of the first report during which the Secretary continues to fail to make the decision required by this section, submit another report on the reasons for such failure to the committees listed in this paragraph.
  - Reference: 42 U.S.C. § 7261a(a)(3) (2017)
- The Secretary shall, as soon as practicable after the end of each fiscal year, commencing with the first complete fiscal year following October 1, 1977, make a report to the President for submission to the Congress on the activities of the Department during the preceding fiscal year.

- Reference: 42 U.S.C. § 7267 (2017)
- Not later than January 31 each year, the Secretary shall submit to Congress a report on the assessment conducted under subsection (a) of this section [comprehensive assessment of the vulnerability of Department facilities to terrorist attack] during the preceding year.
  - Reference: 42 U.S.C. § 7270c (2017)
- The Secretary may not proceed with the preparation of an environmental impact statement relating to the construction or operation of a defense facility of the Department of Energy if the estimated cost of preparing such statement exceeds \$250,000 unless the Secretary has notified the Committees on Armed Services of the Senate and the House of Representatives of his intent to prepare such statement and a period of 30 days has expired after the date on which such notice was received by such committees or the Secretary has received from each such committee, before the expiration of such thirty-day period, a written notice that the committee agrees with the decision of the Secretary regarding the preparation of such statement.
  - Reference: 42 U.S.C. § 7274(1) (2017)
- At the same time the Secretary issues an annual five-year plan under paragraph (1) [environmental restoration and waste management activities to be conducted], the Secretary shall submit the plan to the President and Congress.
  - Reference: 42 U.S.C. § 7274g(a)(3) (2017)
- The Energy Information Administration shall issue a report quarterly, and provide an annual summary of the quarterly reports to Congress, on the status of United States coal imports.
  - Reference: 42 U.S.C. § 7277(a) (2017)
- The Secretary of Energy shall include in the budget justification materials submitted to Congress in support of the Department of Energy budget for a fiscal year (as submitted with the budget of the President under section 1105(a) of Title 31) specific identification, as a budgetary line item, of the amounts required to meet the pension obligations of the Department of Energy for contractor employees at each facility of the Department of Energy operated using amounts authorized to be appropriated for the Department of Energy.
  - Reference: 42 U.S.C. § 7279 (2017)
- The Secretary of Energy shall submit to Congress each year, at the time that the President's budget is submitted to Congress that year under section 1105(a) of Title 31, a future-years energy program reflecting the estimated expenditures and proposed appropriations included in that budget.
  - Reference: 42 U.S.C. § 7279a(a) (2017)
- In order to improve the effectiveness of Federal information dissemination activities in the fields of renewable resources and energy conservation with the objective of developing and promoting better public understanding of these resources and their potential uses, the Secretary shall report annually to the Congress on the status of such activities, including a description of how the information dissemination activities and services of the Department of Energy in the fields of renewable energy resources and energy conservation are being coordinated with similar or related activities and services of other federal agencies.
  - Reference: 42 U.S.C. § 7373(2) (2017)

- The Secretary shall submit to Congress as part of the annual budget submission for a fiscal year a report describing the manner in which the department has complied with subsection (d) for the prior fiscal year [using the Science, Engineering, and Mathematics Education Fund] and the manner in which the Department proposes to comply with subsection (d) during the following fiscal year.
  - Reference: 42 U.S.C. § 7381a(e) (2017)
- The Secretary shall submit to Congress with the annual budget submission of the Secretary a report on how the activities assisted under this section [summer institute programs] improve the science, technology, engineering, and mathematics teaching skills of participating teachers.
  - Reference: 42 U.S.C. § 7381n(e)(3) (2017)
- The Secretary shall annually use metrics to evaluate the success of the programs established under subsection (a) [to recruit and provide mentors for women and underrepresented minorities who are interested in careers in science, engineering, and mathematics] and submit to Congress a report that describes the results of each evaluation.
  - Reference: 42 U.S.C. § 7381r(c) (2017)
- The Secretary shall. . .not later than August 31 of each year in which [Albert Einstein Distinguished Educator] fellowships are awarded, prepare and submit an annual report and evaluation of the Program to the appropriate Committees of the Senate and the House of Representatives.
  - Reference: 42 U.S.C. § 7382c(b)(5) (2017)
- For fiscal year 2007 and each fiscal year thereafter, the Secretary of Energy shall include in the budget justification materials submitted to Congress in support of the Department of Energy budget for that fiscal year (as submitted with the budget of the President under section 1105(a) of Title 31) a report specifying the number of applications for security clearances under this subsection, the number of such applications granted, and the number of such applications denied.
  - Reference: 42 U.S.C. § 7384o(e)(2) (2017)
- For fiscal year 2016 and each fiscal year thereafter, the Secretary of Energy shall include in the budget justification materials submitted to Congress in support of the Department of Energy budget for that fiscal year (as submitted with the budget of the President under section 1105(a) of Title 31) a report specifying the number of applications for security clearances under this subsection, the number of such applications granted, and the number of such applications denied.
  - Reference: 42 U.S.C. § 7385s-16(f)(3) (2017)

*Review Commissions:* None

*Advisory Commissions:* The Secretary is authorized to establish in accordance with the Federal Advisory Committee Act such advisory committees as he may deem appropriate to assist in the performance of his functions.

- Reference: 42 U.S.C. § 7234 (2017)
- The Governors of the various States may establish Regional Energy Advisory Boards for their regions with such membership as they may determine. . .Each Board established. . .may make such recommendations as it determines to be appropriate to programs of the Department having a direct effect on the region.
  - Reference: 42 U.S.C. § 7265 (2017)

- There is hereby established a commission to be known as the Commission on Safeguards, Security, and Counterintelligence at Department of Energy Facilities. . . The Commission shall, in accordance with this section, review the safeguards, security, and counterintelligence activities (including activities relating to information management, computer security, and personnel security) at Department of Energy facilities to. . . make recommendations for actions the Commission determines as being necessary to ensure that such security is achieved and maintained.

- Reference: 42 U.S.C. § 7383 (2017)

*Action Require Outside Approval:* Except as provided in section 7173 of this title [initiation of rulemaking in front of the Commission] whenever the Secretary proposes to prescribe rules, regulations, and statements of policy of general applicability in the exercise of any function which is transferred to the Secretary under section 7161 of this title or section 60501 of Title 49, he shall notify the Commission of the proposed action. If the Commission, in its discretion, determines within such period as the Secretary may prescribe, that the proposed action may significantly affect any function with the jurisdiction of the Commission pursuant to section 7172(a)(1) and (c)(1) of this title and section 60502 of Title 49, the Secretary shall immediately refer the matter to the Commission, which shall provide an opportunity for public comment. Following such opportunity for public comment the Commission, after consultation with the Secretary shall either concur in adoption of the rule or statement as proposed by the Secretary; concur in adoption of the rule or statement only with such changes as it may recommend; or recommend that the rule or statement not be adopted. The Commission shall promptly public its recommendations, adopted under this subsection, along with an explanation of the reason for its actions and an analysis of the major comments, criticisms, and alternatives offered during the commend period. Following publication of the Commission’s recommendations the Secretary shall have the option of issuing a final rule or statement in the form initially proposed by the Secretary if the Commission has concurred in such rule pursuant to subsection (b)(1) of this section; issuing a final rule or statement in amended form so that the rule conforms in all respects with the changes proposed by the Commission if the Commission has concurred in such rule or statement pursuant to subsection (b)(2) of this section; or ordering that the rule shall not be issued.

- Reference: 42 U.S.C. § 7174 (2017)

- Under guidelines prescribed by the Secretary and concurred with by the Attorney General, employees of the Department of Energy and employees of contractors and subcontracts (at any tier) of the Department of Energy while discharging their official duties of protecting the Strategic Petroleum Reserve (established under part B of title I of the Energy Policy and Conservation Act) or its storage related facilities or of protecting persons upon the Strategic Petroleum Reserve or its storage related facilities may carry firearms if designated by the Secretary and qualified for the use of firearms under the guidelines and arrest without warrant any person for an offense against the United States in the case of a felony, if the employee has reasonable grounds to believe that the person has committed or is committing a felony and is in or is fleeing form the immediate area of the felony and in the case of a felony or misdemeanor, if the violation is committed in the presence of the employee.

- Reference: 42 U.S.C. § 7270a (2017)

*Legislative Veto:* None

*Adjudication:*<sup>144</sup> Jurisdiction over matters transferred to the Department of Energy from the Energy Research and Development Administration which on the effective date of such transfer were required by law, regulation, or administrative order to be made on the record after an opportunity for an agency hearing may be assigned to the Federal Energy Regulatory Commission or retained by the Secretary at his discretion.

- Reference: 42 U.S.C. § 7151a (2017)
- The [Federal Energy Regulatory] Commission shall have jurisdiction to hear and determine any other matter arising under any other function of the Secretary involving any agency determination required by law to be made on the record after an opportunity for an agency hearing or involving any other agency determination which the Secretary determines shall be made on the record after an opportunity for an agency hearing.
  - Reference: 42 U.S.C. § 7172(d) (2017)

### **Federal Energy Regulatory Commission**

*Date of Creation:* August 4, 1977<sup>145</sup>

*Statute:* 42 U.S.C. §§ 7171-7178 (2017)

*Authorizing Language:* There is established within the Department an independent regulatory commission to be known as the Federal Energy Regulatory Commission.

- Reference: 42 U.S.C. § 7171(a) (2017)

*Commissioners/Board Members:* The Commission shall be composed of five members appointed by the President, by and with the advice and consent of the Senate.

- Reference: 42 U.S.C. § 7171(b)(1) (2017)

*Quorum Rules:* A quorum for the transaction of business shall consist of at least three members present.

- Reference: 42 U.S.C. § 7171(e) (2017)

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* Not more than three members of the Commission shall be members of the same political party.

- Reference: 42 U.S.C. § 7171(b)(1) (2017)

*Fixed Terms:* Members shall hold office for a term of 5 years.

- Reference: 42 U.S.C. § 7171(b)(1) (2017)

*Staggered Terms:* The terms of members first taking office after April 11, 1990, shall expire as follows: In the case of members appointed to succeed members whose terms expire in 1991, one such member's term shall expire on June 30, 1994, and one such member's term shall expire on June 30, 1995, as designated by the President at the time of appointment. In the case of members appointed to succeed members whose terms expire in 1992, one such member's term shall expire on June 30, 1996, and one such member's term shall expire on June 30, 1997, as designated at the time of appointment. In the case of the member appointed to succeed the member whose term expires in 1993, such member's term shall expire on June 30, 1998.

- Reference: 42 U.S.C. § 7171(b)(2) (2017)

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<sup>144</sup> Employs administrative law judges. Association of Administrative Law Judges. "Agencies Employing Administrative Law Judges," <http://www.aalj.org/agencies-employing-administrative-law-judges> (accessed October 30, 2017).

<sup>145</sup> Department of Energy Organization Act, Pub. L. No. 95-91, 91 Stat. 565 (1977).

*For Cause:* Members shall hold office for a term of 5 years and may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office.

- Reference: 42 U.S.C. § 7171(b)(1) (2017)

*Serve President:* None

*Continuation until Replacement:* A Commissioner may continue to serve after the expiration of his term until his successor is appointed and has been confirmed and taken the oath of Office, except that such Commission shall not serve beyond the end of the session of the Congress in which such term expires.

- Reference: 42 U.S.C. § 7171(b)(1) (2017)

*Acting Service Rules:* The Chairman of the Commission may designate any other member of the Commission as Acting Chairman to act in the place and stead of the Chairman during his absence.

- Reference: 42 U.S.C. § 7171(e) (2017)

*Who is Head of Agency:* One of the members shall be designated by the President as Chairman.

- Reference:

*OMB Review:*<sup>146</sup> In each annual authorization and appropriation request under this chapter the Secretary shall identify the portion thereof intended for the support of the Commission and include a statement by the Commission showing the amount requested by the Commission in its budgetary presentation to the Secretary and the Office of Management and Budget and an assessment of the budgetary needs of the Commission. Whenever the Commission submits to the Secretary, the President, or the Office of Management and Budget, any legislative recommendation or testimony, or comments on legislation, prepared for submission to Congress, the Commission shall concurrently transmit a copy thereof to the appropriate committees of Congress.

- Reference: 42 U.S.C. § 7171(j) (2017)<sup>147</sup>

*Independent Litigating:* Except as provided in section 518 of Title 28, relating to litigation before the Supreme Court, attorneys designated by the Chairman of the Commission may appear for, and represent the Commission in, any civil action brought in connection with any function carried out by the Commission pursuant to this chapter or as otherwise authorized by law.

- Reference: 42 U.S.C. § 7171(i) (2017)

*Independent Sources of Funding:* Except as provided in paragraph (2) [relating to conservation and fish and wildlife licenses] and beginning in fiscal year 1987 and in each fiscal year thereafter, the Federal Energy Regulatory Commission shall, using the provisions of this section and authority provided by other laws, assess and collect fees and annual charges in any fiscal year in amounts equal to all of the costs incurred by the Commission in that fiscal year.

- Reference: 42 U.S.C. § 7178(a)(1) (2017)

*Reporting Requirements:* None

*Review Commissions:* None

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<sup>146</sup> The Federal Energy Regulatory Commission is identified as an “independent regulatory agency” and thus is exempt from OMB rule review. See Exec. Order No. 12866, 58 Fed. Reg. 51735 (1993); 44 U.S.C. § 3502(5) (2017).

<sup>147</sup> See also, Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget “Bypass” Authorities (Feb. 20, 2001), available at <http://www.citizen.org/documents/OMBDocument1.pdf>.

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:*<sup>148</sup> The Commission shall have jurisdiction to hear and determine any other matter arising under other function of the Secretary involving any agency determination required by law to be made on the record after an opportunity for an agency hearing or involving any other agency determination which the Secretary determines shall be made on the record after an opportunity for an agency hearing.

- Reference: 42 U.S.C. § 7172(d) (2017)

### **Loan Programs Office**

*Date of Creation:* August 8, 2005

*Statute:* Not established in U.S. Code

### **National Nuclear Security Administration**

*Date of Creation:* October 5, 1999<sup>149</sup>

*Statute:* 50 U.S.C. §§ 2401-2484 (2017)

*Authorizing Language:* There is established within the Department of Energy a separately organized agency to be known as the National Nuclear Security Administration.

- Reference: 50 U.S.C. § 2401(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* The Administrator may, for the purposes of carrying out the responsibilities of the Administrator under this chapter, establish not more than 600 contracting, program management, scientific, engineering, and technical positions in the Administration, appoint individuals to such positions, and fix the compensation of such individuals. Subject to the limitations in the preceding sentence, the authority of the Administrator to make appointments and fix compensation with respect to positions in the Administration under this section shall be equivalent to, and subject to the limitations of, the authority under section 2201(d) of title 42 to make appointments and fix compensation with respect to officers and employees described in such section [allowing for the appointment and compensation of certain employees without regard to Title 5].

- Reference: 50 U.S.C. § 2441

*Limitation on Appointment:* The Under Secretary for Nuclear Security shall be appointed from among persons who have extensive background in national security, organizational management, and appropriate technical fields and are well qualified to manage the nuclear weapons, nonproliferation, and materials disposition programs of the National Nuclear Security Administration in a manner that advances and protects the national security of the United States.

- Reference: 42 U.S.C. § 7132(c)(2) (2017)
- The Principal Deputy Administrator shall be appointed from among persons who have extensive background in organizational management and are well qualified to manage the

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<sup>148</sup> Employs administrative law judges. Association of Administrative Law Judges. “Agencies Employing Administrative Law Judges,” <http://www.aalj.org/agencies-employing-administrative-law-judges> (accessed October 30, 2017).

<sup>149</sup> National Defense Authorization Act for Fiscal Year 2000, Pub. L. No. 106-65, 113 Stat. 512 (1999).

nuclear weapons, nonproliferation, and materials disposition programs of the Administration in a manner that advances and protects the national security of the United States.

- Reference: 50 U.S.C. § 2403(a) (2017)
- Except in accordance with sections 2402(a)(2) and 2406(a)(1) of this title [Under Secretary for Nuclear Security as Administrator and director of the Naval Nuclear Propulsion Program as Deputy Administrator for Naval Reactors]: An individual may not concurrently hold or carry out the responsibilities of a position within the Administration and a position within the Department of Energy not within the Administration.
  - Reference: 50 U.S.C. § 2410(d) (2017)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* The Principal Deputy Administrator shall act for, and exercise the powers of, the Administrator when the Administrator is disabled or the position of Administrator is vacant.

- Reference: 50 U.S.C. § 2403(b) (2017)

*Who is Head of Agency:* There is at the head of the Administration an Administrator for Nuclear Security. Pursuant to subsection (c) of section 7132 of Title 42, the Under Secretary for Nuclear Security of the Department of Energy serves as the Administrator.

- Reference: 50 U.S.C. § 2402(a) (2017)
- There shall be in the Department an Under Secretary for Nuclear Security, who shall be appointed by the President, by and with the advice and consent of the Senate. . .The Under Secretary for Nuclear Security shall serve as the Administrator for Nuclear Security under section 2402 of Title 50.
  - Reference: 50 U.S.C. § 7132(c) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* The Director [for Cost Estimating and Program Evaluation] shall submit to Congress a report on any major programmatic deviations from the future-years nuclear security program discovered in conducting a review under paragraph (1)(B) [annual review of future-years nuclear security program] at or about the time the budget of the President is submitted to Congress under section 1105(a) of Title 31 for the next fiscal year.

- Reference: 50 U.S.C. § 2411
- The Director [for Cost Estimating and Program Evaluation] shall submit to Congress at or about the time that the budget of the President is submitted to Congress pursuant to section 1105(a) of Title 31 for each of fiscal years 2015 through 2018, a report that includes the following: a description of activities conducted by the Director during the calendar year preceding the submission of the report that are related to the duties and activities described in this section; a list of all major atomic energy defense acquisition

programs and a concise description of the status of each such program and project in meeting cost and critical schedule milestones.

- Reference: 50 U.S.C. § 2411(g) (2017)
- Not later than February 1 of each year, the Administrator shall submit to the congressional defense committees a report on special access programs of the Administration.
  - Reference: 50 U.S.C. § 2426(a)(1) (2017)
- Not later than February 1 of each year, the Administrator shall submit to the congressional defense committees a report that, with respect to each new special access program, provides notice of the designation of the program as a special access program and justification for such designation.
  - Reference: 50 U.S.C. § 2426(b) (2017)
- Whenever a change in the classification of a special access program of the Administration is planned to be made or whenever classified information concerning a special access program of the Administration is to be declassified and made public, the Administrator shall submit to the congressional defense committees a report containing a description of the proposed change, the reasons for the proposed change, and notice of any public announcement planned to be made with respect to the proposed change.
  - Reference: 50 U.S.C. § 2426(c)(1) (2017)
- Whenever there is a modification or termination of the policy and criteria used for designated a program of the Administration as a special access program, the Administrator shall promptly notify the congressional defense committees of such modification or termination.
  - Reference: 50 U.S.C. § 2426(d) (2017)
- A special access program may not be initiated until the congressional defense committees are notified of the program and a period of 30 days elapses after such notification is received.
  - Reference: 50 U.S.C. § 2426(f) (2017)
- The Administrator shall include in the budget justification materials submitted to Congress in support of the budget of the Administration for each fiscal year (as submitted with the budget of the President under section 1105(a) of Title 31) a report containing the following information as of the date of the report: the number of full-time equivalent employees of the Office of the Administrator, as counted under subsection (a); the number of service support contracts of the Administration and whether such contracts are funded using program or program direction funds; the number of full-time equivalent contractor employees working under each contract identified under paragraph (2); the number of full-time equivalent contractor employees described in paragraph (3) that have been employed under such a contract for a period greater than two years; with respect to each contract identified under paragraph (2) the cost of the contract and identification of the program or program direction accounts that support the contract.
  - Reference: 50 U.S.C. § 2441a(f) (2017)
- At or about the time that the President's budget is submitted to Congress under section 1105(a) of Title 31, the Secretary of Energy and the Administrator shall jointly notify the appropriate congressional committees of the number of covered employees whose security clearance was revoked during the year prior to the year in which the notification is made and for each employee counted under paragraph (1), the length of time such

employee has been employed at the Department or the Administration, as the case may be, since such revocation.

- Reference: 50 U.S.C. § 2443(a) (2017)
- Whenever the Secretary or the Administration terminates the employment of a covered employee or removes and reassigns a covered employee for cause, the Secretary or the Administrator, as the case may be, shall notify the appropriate congressional committees of such termination or reassignment by not later than 30 days after the date of such termination or reassignment.
  - Reference: 50 U.S.C. § 2443(b) (2017)
- The Secretary or the Administrator, as the case may be, may waive the limitation on the payment of a bonus under subsection (a) or (b) on a case-by-case basis if the Secretary or the Administrator, as the case may be, notifies the appropriate congressional committees of such waiver and a period of 60 days elapses following such notification.
  - Reference: 50 U.S.C. § 2445(c) (2017)
- Except as provided by subsection (b), if the Secretary of Energy or the Administrator determines that a covered contractor engaged in improper program management that resulted in a notification under section 2753 of this title or significantly and detrimentally affected the cost, scope, or schedule associated with the approval of critical decision 3 in the acquisition process for a project (as defined in Department of Energy Order 413.3B (relating to program management and project management for the acquisition of capital assets)), the Secretary or the Administrator, as the case may be, shall submit to the appropriate congressional committees an explanation as to whether termination of the contract is an appropriate remedy; a description of the terms of the contract regarding award fees and performance; and a description of how the Secretary or the Administrator, as the case may be, plans to exercise options under the contract. If the Secretary or the Administrator, as the case may be, is not able to submit the information described in paragraphs (1) through (3) of subsection (a) by reason of a contract enforcement action, the Secretary or the Administrator, as the case may be, shall submit to the appropriate congressional committees a notification of such contract enforcement action and the date on which the Secretary or the Administrator, as the case may be, plans to submit the information described in such paragraphs.
  - Reference: 50 U.S.C. § 2446 (2017)
- In the budget justification materials submitted to Congress in support of each such budget, the Administrator shall include an assessment of how the budget maintains the core nuclear weapons skills of the Administration, including nuclear weapons design, engineering, production, testing, and prediction of stockpile aging.
  - Reference: 50 U.S.C. § 2451(b) (2017)
- The Administrator shall submit to Congress each year, at or about the time that the President's budget is submitted to Congress under section 1105(a) of Title 31, each of the following: the plan required by subsection (b) of this section prepared with respect to that budget; a report on the plans prepared with respect to the preceding years budgets, which shall include, for each goal provided in those plans the assessment of the Administrator as to whether or not that goal was met and if that assessment is that the goal was not met the reasons why that goal was not met and the plan of the Administrator for meeting or, if necessary, adjusting that goal.
  - Reference: 50 U.S.C. § 2452(c) (2017)

- The Administrator shall submit to Congress each year, at or about the time that the President’s budget is submitted to Congress that year under section 1105(a) of Title 31, a future-years nuclear security program, (including associated annexes) reflecting the estimated expenditures and proposed appropriations included in that budget. Any such future-years nuclear security program shall cover the fiscal year with respect to which the budget is submitted and at least the four succeeding fiscal years.
  - Reference: 50 U.S.C. § 2453(a) (2017)
- The Administrator shall submit to the Committees on Armed Services of the Senate and the House of Representatives a semiannual report on the amounts available for the defense nuclear nonproliferation programs of the Administration.
  - Reference: 50 U.S.C. § 2454(a) (2017)
- Not later than 15 days before obligating or expending funds under the authority provided in subsection (a), the Secretary of Energy shall notify the appropriate congressional committees of the determination made under paragraph (1) [that threats require expending amounts for nonproliferation programs]. The notice shall include the determination; the activities to be undertaken by the nonproliferation programs of the National Nuclear Security Administration; the expected time frame for such activities; and the expected costs for such activities.
  - Reference: 50 U.S.C. § 2455a(b)(2) (2017)

*Review Commissions:* None

*Advisory Commissions:* The Administrator shall establish a council to be known as the National Nuclear Security Administration Council. The Council may advise the Administrator on scientific and technical issues relating to policy matters; operational concerns; strategic planning, the development of priorities relating to the mission and operations of the Administration and the nuclear security enterprise; and other such matters as the Administrator determines appropriate.

- Reference: 50 U.S.C. § 2512(b) (2017)

*Action Require Outside Approval:* The Administrator may establish Administration-specific policies, unless disapproved by the Secretary of Energy.

- Reference: 50 U.S.C. § 2402(d) (2017)
- The Secretary of Energy, with the concurrence of the Secretary of State and the Secretary of Defense, may make a written determination that threats arising from the proliferation of nuclear or radiological weapons or weapons-related materials, technologies, and expertise must be addressed urgently; certain provisions of law would unnecessarily impede the Secretary’s ability to carry out nonproliferation activities of the National Nuclear Security Administration to address such threats; and it is necessary to expend amounts described in subsection (a) to carry out such activities.
  - Reference: 50 U.S.C. § 2455a(b)(1) (2017)

*Legislative Veto:* None

*Adjudication:* None

### **Office of Acquisition Management**

*Date of Creation:* Unknown

*Statute:* Not established in U.S. Code

### **Office of Electricity Delivery and Energy Reliability**

*Date of Creation:* June 9, 2005<sup>150</sup>  
*Statute:* Not established in U.S. Code

**Office of Energy Efficiency and Renewable Energy**

*Date of Creation:* February 25, 1981<sup>151</sup>  
*Statute:* Not established in U.S. Code

**Office of Nuclear Safety Enforcement**

*Date of Creation:* Unknown  
*Statute:* Not established in U.S. Code

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

*Date of Creation:* April 11, 1953<sup>152</sup>  
*Statute:* 42 U.S.C. §§ 3501-3515e (2017)

*Authorizing Language:* The provisions of Reorganization Plan Numbered 1 of 1953, submitted to the Congress on March 12, 1953, shall take effect ten days after April 1, 1953, and its approval by the President, notwithstanding the provisions of Reorganization Act of 1949, as amended, except that section 9 of such Act shall apply to such reorganization plan and to the reorganization made thereby.

- Reference: 42 U.S.C. § 3501 (2017)
- There is hereby established an executive department, which shall be known as the Department of Health, Education, and Welfare.
  - Reference: Reorg. Plan No. 1 of 1953 § 1

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* The Under Secretary (or, during the absence or disability of the Under Secretary or in the event of a vacancy in the office of the Under Secretary, an Assistant Secretary determined according to such order as the Secretary shall prescribe) shall act as Secretary during the absence or disability of the Secretary or in the event of a vacancy in the office of Secretary.

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<sup>150</sup> Secretary of Energy announcement. Assistant Secretary of Electricity Delivery and energy Reliability established in 2007. Secretary of Energy Memorandum EXEC-2007-010607 (Oct. 24, 2007).

<sup>151</sup> Established as Office of Conservation and Renewable Energy by Secretarial Order. After a Department of Energy Reorganization in 1993, the office was renamed the Office of Energy Efficiency and Renewable Energy.  
<https://www.energy.gov/eere/timeline/eere-timeline>

<sup>152</sup> Reorganization Plan No. 1 of 1953 created the Department of Health, Education, and Welfare. The Department because the Department of Health and Human Services upon enactment of the Department of Education Organization Act. Pub. L. No. 96-88, 93 Stat. 668 (1979).

- Reference: Reorg. Plan No. 1 of 1953 § 2

*Who is Head of Agency:* There shall be at the head of the Department a Secretary of Health, Education, and Welfare, who shall be appointed by the President by and with the advice and consent of the Senate.

- Reference: Reorg. Plan No. 1 of 1953 § 1

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* There is established a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of (1) a central reproduction service; (2) a central visual exhibit service; (3) a central supply service for supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department; (4) a central tabulating service; (5) telephone, mail, and messenger services; (6) a central accounting and payroll service; and (7) a central laborers' service: Provided that any stocks of supplies and equipment on hand or on order shall be used to capitalize such fund: Provided further, that such fund shall be reimbursed in advance from funds available to bureaus, offices, and agencies for which such centralized services are performed at rates which will return in full all expenses of operation, including reserves for accrued annual leave and depreciation of equipment.

- Reference: 42 U.S.C. § 3513 (2017)
- The Working Capital Fund of the Department of Health and Human Services shall on and after January 11, 1971, be available for expenses necessary for centralized personnel data collection and reporting and common regional administrative support services.
  - Reference: 42 U.S.C. § 3513a (2017)
- The Working Capital Fund of the Department of Health and Human Services shall on and after August 10, 1971, be available for expenses necessary for common personnel support services in the Washington area.
  - Reference: 42 U.S.C. § 3513b (2017)
- There is hereby established on the books of the Treasury an account or accounts without fiscal year limitation. There shall be deposited in such account, to the extent provided by the Secretary of Health and Human Services or his designee, all or part of any grant awarded by the Secretary or any other officer or employee of the Department of Health and Human Services. Payments of any such grant shall from time to time be made to the grantee from such account or accounts, subject to such limitations relating to fund accumulation as the Secretary may prescribe, to the extent needed to carry out the purposes of any such grant. Such reports as the Secretary or other officer awarding the grant may find necessary to assure expenditures of funds for the purpose of and in accordance with the terms and conditions of the grant shall be made to the Secretary or such officer by any such grantee.
  - Reference: 42 U.S.C. § 3514
- There is hereby established in the Treasury of the United States a fund to be known as the "Nonrecurring expenses fund": Provided, That unobligated balances of expired discretionary funds appropriated in this or any succeeding fiscal year from the General Fund of the Treasury to the Department of Health and Human Services by this or any other Act may be transferred (not later than the end of the fifth fiscal year after the last fiscal year for which such funds are available for the purposes for which appropriated)

into the Fund: Provided further, That amounts deposited in the Fund shall be available until expended, and in addition to such other funds as may be available for such purposes, for capital acquisition necessary for the operation of the Department, including facilities infrastructure and information technology infrastructure, subject to approval by the Office of Management and Budget: Provided further, that amounts in the Fund may be obligated only after the Committees on Appropriations of the House of Representatives and the Senate are notified at least 15 days in advance of the planned use of funds.

- Reference: 42 U.S.C. § 3514a (2017)
- For any program funded in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, the Secretary of Health and Human Services is authorized, when providing services or conducting activities for a State with respect to such program for which the Secretary is entitled to reimbursement by the State, to obtain such reimbursement as an offset against Federal payments to which the State would otherwise be entitled under such program from funds appropriated for the same or any subsequent fiscal year. Such offsets shall be credited to the appropriation account which bore the expense of providing the service or conducting the activity, and shall remain available until expended.
- Reference: 42 U.S.C. § 3515c (2017)

*Reporting Requirements:* There is hereby established in the Treasury of the United States a fund to be known as the “Nonrecurring expenses fund”: Provided, That unobligated balances of expired discretionary funds appropriated in this or any succeeding fiscal year from the General Fund of the Treasury to the Department of Health and Human Services by this or any other Act may be transferred (not later than the end of the fifth fiscal year after the last fiscal year for which such funds are available for the purposes for which appropriated) into the Fund: Provided further, That amounts deposited in the Fund shall be available until expended, and in addition to such other funds as may be available for such purposes, for capital acquisition necessary for the operation of the Department, including facilities infrastructure and information technology infrastructure, subject to approval by the Office of Management and Budget: Provided further, that amounts in the Fund may be obligated only after the Committees on Appropriations of the House of Representatives and the Senate are notified at least 15 days in advance of the planned use of funds.

- Reference: 42 U.S.C. § 3514a (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* There is hereby established in the Treasury of the United States a fund to be known as the “Nonrecurring expenses fund”: Provided, That unobligated balances of expired discretionary funds appropriated in this or any succeeding fiscal year from the General Fund of the Treasury to the Department of Health and Human Services by this or any other Act may be transferred (not later than the end of the fifth fiscal year after the last fiscal year for which such funds are available for the purposes for which appropriated) into the Fund: Provided further, That amounts deposited in the Fund shall be available until expended, and in addition to such other funds as may be available for such purposes, for capital acquisition necessary for the operation of the Department, including facilities infrastructure and information technology infrastructure, subject to approval by the Office of Management and Budget:

Provided further, that amounts in the Fund may be obligated only after the Committees on Appropriations of the House of Representatives and the Senate are notified at least 15 days in advance of the planned use of funds.

- Reference: 42 U.S.C. § 3514a (2017)

*Legislative Veto:* None

*Adjudication:*<sup>153</sup> None

### **Administration for Children and Families**

*Date of Creation:* April 15, 1991<sup>154</sup>

*Statute:* Not established in U.S. Code

### **Administration for Community Living**

*Date of Creation:* April 18, 2012

*Statute:* Not established in U.S. Code<sup>155</sup>

### **Administration on Aging**

*Date of Creation:* July 14, 1965<sup>156</sup>

*Statute:* 42 U.S.C. §§ 3011-3020f (2017)

*Authorizing Language:* There is established in the Office of the Secretary an Administration on Aging.

- Reference: 42 U.S.C. § 3011(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* The Office [of Long-Term Care Ombudsman Programs] shall be headed by a Director of the Office of Long-Term Care Ombudsman Programs who shall be appointed by the Assistant Secretary from among individuals who have expertise and background in the fields of long-term care advocacy and management. . . No individual shall be appointed Director if the individual has been employed within the previous 2 years by a long-term care facility; a corporation that then owned or operated a long-term care facility; or an association of long-term care facilities; the individual has an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility or long-term care service or receives, or has the right to receive, directly or indirectly remuneration (in case or in kind) under a compensation arrangement with an owner or operator of a long-term care facility or the individual, or any member of the immediate family of the individual, is subject to a conflict of interest.

- Reference: 42 U.S.C. § 3011(d)(2) (2017)

*Party Balancing:* N/A

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<sup>153</sup> Employs administrative law judges. Association of Administrative Law Judges. “Agencies Employing Administrative Law Judges,” <http://www.aalj.org/agencies-employing-administrative-law-judges> (accessed October 30, 2017).

<sup>154</sup> HHS Reorganization.

<sup>155</sup> While no language in the U.S. Code explicitly established the Administration for Community Living, statutory language does transfer to the Administration all functions which the Commissioner of the Rehabilitation Services Administration exercised before July 22, 2014. See 2 U.S.C. § 3515e (2017).

<sup>156</sup> Older Americans Act of 1965, Pub. L. No. 89-73, 79 Stat. 218 (1965).

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* [The] Administration on Aging. . . shall be headed by an Assistant Secretary for Aging. . . The Assistant Secretary shall be appointed by the President by and with the advice and consent of the Senate.

- Reference: 42 U.S.C. § 3011(a)-(b) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The Assistant Secretary may accept, use and dispose of, on behalf of the United States, gifts or donations (in cash or in kind, including voluntary and uncompensated services or property), which shall be available until expended for the purposes specified in subsection (b) of this section. Gifts of cash and proceeds of the sale of property shall be available in addition to amounts appropriated to carry out this chapter. Gifts and donations accepted pursuant to subsection (a) of this section may be used either directly, or for grants to or contracts with public or nonprofit private entities, for the following activities: the design and implementation of demonstrations of innovative ideas and best practices in programs and services for older individuals; the planning and conduct of conferences for the purpose of exchanging information, among concerned individuals and public and private entities and organizations, relating to programs and services provided under this chapter and other programs and services for older individuals; the development, publication, and dissemination of informational materials (in print, visual, electronic, or other media) relating to the programs and services provided under this chapter and other matters of concern to older individuals.

- Reference: 42 U.S.C. § 3015 (2017)

*Reporting Requirements:* The Director [of Long-Term Care Ombudsman Programs] shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate an annual report on the effectiveness of services provided under section 3027(a)(9) of this title and section 3058g of this title [state long-term care program].

- Reference: 42 U.S.C. § 3011(d)(3)(J) (2017)
- Not later than 90 days following the end of each term, the [Interagency Coordinating] Committee [on Aging] shall prepare and submit to the Committee on Financial Services of the House of Representatives, the Committee on Education and the Workforce of the House of Representatives, the Committee on Energy and Commerce of the House of Representatives, the Committee on Ways and Means of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Health, education, Labor, and Pensions of the Senate, and the Special Committee on Aging of the Senate a report that describes the activities and accomplishments of the Committee in enhancing the overall coordination of federally funded programs and services for older individuals and meeting the requirements of paragraph (6); incorporates an analysis from the head of each agency that is a member of the interagency coordinating committee established under paragraph (1) that describes the barriers and impediments, including barriers and impediments in statutory and regulatory law (as the

chairperson of the Committee determines to be appropriate), to the access and use by older individuals of programs and services administered by such agency; and makes such recommendations as the chairman determines to be appropriate for actions to meet the needs described in paragraph (6) and for coordinating programs and services designed to meet those needs.

- Reference: 42 U.S.C. § 3013(c)(7)(2017)
- The Secretary shall annually publish summaries and analyses of the results of evaluative research and evaluation of program [of the Administration on Aging] and project impact and effectiveness, including, as appropriate, health and nutrition education demonstration projects conducted under section 3027(f) of this title, the full contents of which shall be transmitted to Congress.
  - Reference: 42 U.S.C. § 3017(d) (2017)
- Not later than one hundred and twenty days after the close of each fiscal year, the Assistant Secretary shall prepare and submit to the President and to Congress a full and complete report on the activities carried out under this chapter.
  - Reference: 42 U.S.C. § 3018(a) (2017)
- Not later than March 1 of each year, the Assistant Secretary shall compile a report summarizing and analyzing the data collected under subchapters III and XI of this chapter in accordance with section 3058g(c) of this title for the then most recently concluded fiscal year; identifying significant problems and issues revealed by such data (with special emphasis on problems relating to quality of care and residents rights); discussing current issues concerning the long-term care ombudsman programs of the States; and making recommendations regarding legislation and administrative actions to resolve such problems. The Assistant Secretary shall submit the report required by paragraph (1) to the Special Committee on Aging of the Senate; the Committee on Education and the Workforce of the House of Representatives; and the Committee on Health, Education, Labor, and Pensions of the Senate.
  - Reference: 42 U.S.C. § 3018(b) (2017)
- The Assistant Secretary shall annually prepare and submit to the chairpersons and ranking members of the appropriate committees of Congress a report analyzing all such agreements [with profitmaking organizations to provide services], and the costs incurred and services provided under the agreements.
  - Reference: 42 U.S.C. § 3020c(c) (2017)

*Review Commissions:* None

*Advisory Commissions:* The Assistant Secretary shall establish a citizen advisory panel to advise the Assistant Secretary regarding which entities should receive grant awards under this section.

- Reference: 42 U.S.C. § 3020e-1(d) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Agency for Healthcare Research and Quality**

*Date of Creation:* December 19, 1989<sup>157</sup>

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<sup>157</sup> Omnibus Budget Reconciliation Act of 1989, Pub. L. No. 101-239, 103 Stat. 2106 (1989).

*Statute:* 42 U.S.C. §§ 299-299c-7 (2017)

*Authorizing Language:* There is established within the Public Health Service an agency to be known as the Agency for Healthcare Research and Quality.

- Reference: 42 U.S.C. § 299(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The Agency for Healthcare Research and Quality. . . shall be headed by a director appointed by the Secretary.

- Reference: 42 U.S.C. § 299(a) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* Upon request of a public or private entity, the Director may conduct or support research or analyses otherwise authorized by this subchapter pursuant to arrangements under which such entity will pay the cost of the services provided. Amounts received by the Director under such arrangements shall be available to the Director for obligation until expended.

- Reference: 42 U.S.C. § 299c-2(c) (2017)

*Reporting Requirements:* The Director shall. . . beginning with fiscal year 2003, annually submit to the Congress a report regarding prevailing disparities in health care delivery as it relates to racial factors and socioeconomic factors in priority populations.

- Reference: 42 U.S.C. § 299a-1(a)(6) (2017)
- Beginning in fiscal year 2003, the Secretary, acting through the Director, shall submit to Congress an annual report on national trends in the quality of health care provided to the American people.
  - Reference: 42 U.S.C. § 299b-2(b)(2) (2017)
- The Secretary [acting through the Director] shall submit the reports described in subparagraph (A) [on the quality of improvement programs of HHS for Medicare, Medicaid, and CHIP] to the Committees on Finance and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means and the Committee on Commerce of the House of Representatives.
  - Reference: 42 U.S.C. § 299b-6(b)(2) (2017)
- The Secretary [acting through the Patient Safety Research Center in the Agency] shall submit to the relevant committees of Congress a report which shall [assess medication management services].
  - Reference: 42 U.S.C. § 299b-35(g) (2017)

*Review Commissions:* None

*Advisory Commissions:* There is established an advisory council to be known as the National Advisory Council for Healthcare Research and Quality. The Advisory Council shall advise the Secretary and the Director with respect to activities proposed or undertaken to carry out the mission of the Agency under section 299(b) of this title.

- Reference: 42 U.S.C. § 299c (2017)
- The Director shall establish such technical and scientific peer groups as may be necessary to carry out this section [provide appropriate technical and scientific review with respect to each application for a grant, cooperative agreement, or contract].
  - Reference: 42 U.S.C. § 299c-1 (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Agency for Toxic Substances and Disease Registry**

*Date of Creation:* December 11, 1980<sup>158</sup>

*Statute:* 42 U.S.C. § 9604(i) (2017)

*Authorizing Language:* There is hereby established within the Public Health Service an agency, to be known as the Agency for Toxic Substances and Disease Registry.

- Reference: 42 U.S.C. § 9604(i) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The Administrator of said agency shall. . .effectuate and implement the health related authorities of this chapter.

- Reference: 42 U.S.C. § 9604(i)(1) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* Two years after October 17, 1986, and every 2 years thereafter, the Administrator of ATSDR shall prepare and submit to the Administrator of the EPA and to Congress a report on the results of the activities of ATSDR regarding health assessments and pilot health effects studies conducted; epidemiologic studies conducted; hazardous substances which have been listed under paragraph (2), toxicological profiles which have been developed and toxicologic testing which has been conducted or which is being conducted under this subsection; registries established under paragraph (8); and an

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<sup>158</sup> Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. No. 96-510, 94 Stat. 2767 (1980).

overall assessment, based on the results of the activities conducted by the Administrator of ATSDR, of the linkage between human exposure to the individual or combinations of hazardous substances due to releases from facilities covered by this chapter or the Solid Waste Disposal Act and any increased incidence or prevalence of adverse health effects in humans.

- Reference: 42 U.S.C. § 9604(i)(10) (2017)

*Review Commissions:* All studies and results of research conducted under this subsection (other than health assessments) shall be reported or adopted only after appropriate peer review.

- Reference: 42 U.S.C. § 9604(i)(13) (2017)

*Advisory Commissions:* The Administrator of ATSDR shall consider recommendations of the Interagency Testing Committee established under section 4(e) of the Toxic Substances Control Act on the types of research that should be done [on the health effects of various substances].

- Reference: 42 U.S.C. § 9604(i)(5)(A) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Centers for Disease Control and Prevention**

*Date of Creation:* July 1, 1973

*Statute:* Not established in U.S. Code

### **Centers for Medicare and Medicaid Services**

*Date of Creation:* March 9, 1977<sup>159</sup>

*Statute:* Not established in U.S. Code

*Authorizing Language:* None

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* There is established in the Centers for Medicare and Medicaid Services the position of Chief Actuary. . . The Chief Actuary shall be appointed from among individuals who have demonstrated, by their education and experience, superior expertise in the actuarial sciences.

- Reference: 42 U.S.C. § 1317(b)(1) (2017)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

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<sup>159</sup> The Centers for Medicare and Medicaid Services was established in the Department of Health and Human Services as the Health Care Financing Administration by Reorganization Order. 42 Fed. Reg. 13262 (March 9, 1977). HHS changed the name of the Health Care Financing Administration to the Centers for Medicare and Medicaid Services by Reorganization Order in 2001. 66 Fed. Reg. 35437 (July 5, 2001).

*Who is Head of Agency:* The Administrator of the Centers for Medicare and Medicaid Services shall be appointed by the President by and with the advice and consent of the Senate.

- Reference: 42 U.S.C. § 1317(a) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Food and Drug Administration**

*Date of Creation:* June 30, 1906<sup>160</sup>

*Statute:* 21 U.S.C. §§ 301-399h (2017)

*Authorizing Language:* There is established in the Department of Health and Human Services the Food and Drug Administration.

- Reference: 21 U.S.C. § 393(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* The Secretary may, notwithstanding Title 5, governing appointments in the competitive service, appoint outstanding and qualified candidates to scientific, technical, or professional positions that support the development, review, and regulation of medical products.

- Reference: 21 U.S.C. § 379d-3a (2017)
- The Secretary through the Commissioner of Food and Drugs may, without regard to provisions of Title 5 governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, establish such technical and scientific review groups as are needed to carry out the functions of the Administration, including functions under this chapter, and appoint and pay the members of such groups, except that officers and employees of the United States shall not receive additional compensation for service as members of such groups.
  - Reference: 21 U.S.C. § 393(e) (2017)
- Subject to paragraph (2), the Secretary shall carry out a program of entering into contracts with appropriately qualified health professionals under which such health professionals agree to conduct research, as employees of the Food and Drug Administration, in consideration of the Federal Government agreeing to repay, for each year of such service, not more than \$20,000 of principal and interest of the educational loans of such health professionals. The Secretary may not enter into an agreement with a health professional pursuant to paragraph (1) unless such professional has a substantial amount of educational loans relative to income and agrees to serve as an employee of the

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<sup>160</sup> Pure Food Act, Pub. L. No. 384, 34 Stat. 768 (1906).

Food and Drug Administration for the purposes of paragraph (1) for a period of not less than 3 years.

- Reference: 21 U.S.C. § 395(a) (2017)

*Limitation on Appointment:* The staff of the Office of Pediatric Therapeutics. . . shall include one or more additional individuals with expertise concerning ethical issue presented by the conduct of clinical research in the pediatric population; subject to subsection (d), one or more additional individuals with necessary expertise in pediatric subpopulation that is, as determined through consideration of the reports and recommendations issued by the Institute of Medicine and the Comptroller General of the United States, less likely to be studied as a part of a written request issued under section 355a of this title or an assessment under section 355c of this title; one or more additional individuals with expertise in pediatric epidemiology; and one or more additional individuals with expertise in pediatric as may be necessary to perform the activities described in subsection (b) of this section.

- Reference: 21 U.S.C. § 393a(c) (2017)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* There shall be in the Administration a Commissioner of Food and Drugs who shall be appointed by the President by and with the advice and consent of the Senate.

- Reference: 21 U.S.C. § 393(d)(10) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The Secretary shall establish a user fee program under which a sponsor of a human drug application that is the subject of a priority review voucher shall pay to the Secretary a fee determined under paragraph (2). Such fee shall be in addition to any fee required to be submitted by the sponsor under subchapter VII of this chapter. . . Fees collected pursuant to this subsection for any fiscal year shall be deposited and credited as offsetting collections to the account providing appropriations to the Food and Drug Administration and shall not be collected for any fiscal year except to the extent provided in advance in appropriation Acts.

- Reference: 21 U.S.C. § 360n(c) (2017)
- The Secretary shall establish a user fee program under which a sponsor of a human drug application that is the subject of a priority review voucher shall pay to the Secretary a fee determined under paragraph (2). Such fee shall be in addition to any fee required to be submitted by the sponsor under subchapter VII of this chapter. . . Fees collected pursuant to this subsection for any fiscal year shall be deposited and credited as offsetting collections to the account providing appropriations to the Food and Drug Administration and shall not be collected for any fiscal year except to the extent provided in advance in appropriations acts.
- Reference: 21 U.S.C. § 360ff(c) (2017)

- The Secretary shall establish a user fee program under which a sponsor of a human drug application that is the subject of a priority review voucher shall pay to the Secretary a fee determined under paragraph (2). Such fee shall be in addition to any fee required to be submitted by the sponsor under subchapter VII of this chapter. . . Fees collected pursuant to this subsection for any fiscal year shall be deposited and credited as offsetting collections to the account providing appropriations to the Food and Drug Administration and shall not be collected for any fiscal year except to the extent provided in advance in appropriations acts.
  - Reference: 21 U.S.C. § 360bbb-4a(c) (2017)
- In carrying out this section, the Secretary shall have the power, in connection with real property, buildings, and facilities, to accept on behalf of the Food and Drug Administration gifts or donations of services or property, real or personal, as the Secretary determines to be necessary.
  - Reference: 21 U.S.C. § 379b(c) (2017)
- The Secretary, acting through the Commissioner of Food and Drugs, may set and charge fees, in accordance with section 552(a)(4)(A) of Title 5, to recover all reasonable costs incurred in processing request made under section 552 of Title 5 [FOIA] for records obtained or created under this chapter or any other Federal law for which responsibility for administration has been delegated to the Commissioner by the Secretary; retain all fees charged for such requests; and establish an accounting system and procedures to control receipts and expenditures of fees received under this section. The Secretary and the Commissioner of Food and Drugs shall not use fees received under this section for any purpose other than funding the processing of requests described in subsection (a)(1) of this section. Such fees shall not be used to reduce the amount of funds made to carry out other provisions of this chapter.
  - Reference: 21 U.S.C. § 379f (2017)
- The Secretary shall establish in the Food and Drug Administration salaries and expenses appropriation account without fiscal year limitation a Direct-to-Consumer Advisory Review Operating Reserve, of at least \$6,250,000 in fiscal year 2008, to continue the program under this section in the event the fees collected in any subsequent fiscal year pursuant to subsection (a)(1) [advisory review fee] do not generate the fee revenue amount established for that fiscal year.
  - Reference: 21 U.S.C. § 379h-1(d)(1) (2017)
- Any amount of fees collected for a fiscal year under this section that exceeds the amount of fees specified in appropriation Acts for such fiscal year shall be credited to the appropriation account of the Food and Drug Administration as provided in paragraph (1), and shall be subtracted from the amount of fees that would otherwise be collected under this section pursuant to appropriation Acts for a subsequent fiscal year.
  - Reference: 21 U.S.C. § 379h-1(g)(4) (2017)
- If the Secretary issues a written export certification within the 20 days prescribed by subparagraph (A), a fee for such certification may be charged but shall not exceed \$175 for each certification. Fees collected for a fiscal year pursuant to this subparagraph shall be credited to the appropriation account for salaries and expenses of the Food and Drug Administration and shall be available in accordance with appropriations Acts until expended without fiscal year limitation. Such fees shall be collected in each fiscal year in an amount equal to the amount specified in appropriations Acts for such fiscal year and

shall only be collected and available for the costs of the Food and Drug Administration. .  
.With regard to fees pursuant to subparagraph (B) in connection with written export certifications for food: Such fees shall be collected and available solely for the costs of the Food and Drug Administration associated with issuing such certifications; Such fees may not be retained in an amount that exceeds such costs for the respective fiscal year.

- Reference: 21 U.S.C. § 381(e)(4) (2017)
- The Secretary shall establish by regulation a reimbursement (user fee) program, similar to the method described in section 1622(h) of Title 7, by which the Secretary assesses fees and requires accredited third party auditors and audit agents to reimburse the Food and Drug administration for the work performed to establish and administer the accreditation system under this section. The Secretary shall make operating this program revenue-neutral and shall not general surplus revenue from such a reimbursement mechanism. Fees authorized under this paragraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriation Acts. Such fees are authorized to remain available until expended.
  - Reference: 21 U.S.C. § 384d(e)(8) (2017)
- Fees appropriated under paragraph (3) [user fees on tobacco manufacturers and importers] are available only for the purpose of paying the costs of activities of the Food and Drug Administration related to the regulation of tobacco products under this subchapter and the Family Smoking Prevention and Tobacco Control Act, except that such fees may be used for the reimbursement specified in subparagraph (C).
  - Reference: 21 U.S.C. § 387s(c)(2) (2017)

*Reporting Requirements:* Not later than one year after October 26, 2002. . .and annually thereafter, the Secretary shall report to the appropriate committees of Congress on the activities and impact of the [office within the Office of the Commissioner of Food and Drugs to ensure the prompt assignment of combination products to agency centers].

- Reference: 21 U.S.C. § 353(g)(8)(G) (2017)
- The Commissioner shall notify relevant Federal agencies, including the Centers for Medicare and Medicaid Services and the Federal Trade Commission, when the Commissioner first publishes the information described in subparagraph (A) [all authorized generic drugs] and that the information will be updated quarterly.
  - Reference: 21 U.S.C. § 355(t)(1)(B) (2017)
- Not later than March 31 of each calendar year, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report, with respect to the preceding calendar year, on drug shortages that. . .describes the communication between the field investigators of the Food and Drug Administration and the staff of the Center for Drug Evaluation and Research’s Office of Compliance and Drug Shortage Program, including the Food and Drug Administration’s procedures for enabling and ensuring such communication. . .describes the coordination between the Food and Drug Administration and the Drug Enforcement Administration on efforts to prevent or alleviate drug shortages; identifies the number of and describes the instances in which the Food and Drug Administration exercised regulatory flexibility and discretion to prevent or alleviate a drug shortage.
  - Reference: 21 U.S.C. § 356c-1(a) (2017)

- Not later than 18 months after December 13, 2016, the ombudsman for any organizational unit of the Food and Drug Administration responsible for the premarket review of devices shall conduct an audit of the training described in paragraph (1)(A), including the effectiveness of such training in implementing the least burdensome requirements; include in such audit interviews of persons who are representatives of the device industry regarding their experiences in the device premarket review process, including with respect to the application of least burdensome concepts to premarket review and decision-making; include in such audit a list of the measurement tools the Secretary uses to assess the implementation of the least burdensome requirements, including under paragraph (1)(B) and section 360g-1(a)(3) of this title, and may also provide feedback on the effectiveness of such tools in the implementation of the least burdensome requirements; summarize the findings of such audit in a final audit report; and within 30 calendar days of completion of such final audit report, make such final report available to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives.
  - Reference: 21 U.S.C. § 360c(j)(2) (2017)
- Not later than 18 months after September 27, 2007, and annually thereafter, the Secretary [acting through the Commissioner of Food and Drugs], in collaboration with the parties to each Critical Path Public Private Partnership, shall submit a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives reviewing the operations and activities of the Partnerships in the previous year and addressing other such issues relating to this section as the Secretary determines to be appropriate.
  - Reference: 21 U.S.C. § 360bbb-5(d) (2017)
- Not later than 18 months after December 13, 2016, the Secretary shall submit a report on workforce planning to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives that examines the extent to which the Food and Drug Administration has a critical need for qualified individuals for scientific, technical or professional positions.
  - Reference: 21 U.S.C. §379d-3a(d) (2017)
- Beginning with fiscal year 2013 and ending after fiscal year 2017, not later than 120 days after the end of each fiscal year for which fees are collected under subpart 7 of Part C [FDA user fee programs], the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report concerning, for all applications for approval of a generic drug under section 355(j) of this title, amendments to such applications, and prior approval supplements with respect to such applications filed in the previous fiscal year the number of such applications that met the goals identified for purposes of subpart 7 of Part C, in the letters from the Secretary of Health and Human Services to the Chairman of the Committee on Health, Education, Labor, and Pensions of the Senate and the Chairman of the Committee on Energy and Commerce of the House of Representatives, as set forth in the Congressional Record; the average total time to decision by the Secretary for applications for approval of a generic drug under section 355(j) of this title, amendments to such applications, and prior approval supplements with respect to such applications filed in the previous fiscal year, including the number of calendar days spent during the review by the Food and Drug Administration and the

number of calendar days spent by the sponsor responding to a complete response letter; the total number of applications under section 355(j) of this title, amendments to such applications, and prior approval supplements with respect to such applications that were pending with the Secretary for more than 10 months on July 9, 2012; and the number of applications described in paragraph (3) on which the Food and Drug Administration took final regulatory action in the previous fiscal year.

- Reference: 21 U.S.C. § 379d-4(a) (2017)
- Beginning with fiscal year 2014, not later than 120 days after the end of each fiscal year for which fees are collected under subpart 8 of part C [FDA user fee programs], the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report concerning the number of applications for approval filed under section 262(k) of Title 42 and the percentage of applications described in subparagraph (A) that were approved by the Secretary.
  - Reference: 21 U.S.C. § 379d-4(b) (2017)
- Beginning with fiscal year 2013, not later than 120 days after the end of each fiscal year for which fees are collected under this subpart, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letters described in section 101(b) of the Prescription Drug User Fee Amendments of 2012 during such fiscal year and the future plans of the Food and Drug Administration for meeting the goals, including the status of the independent assessment described in such letters; and the progress of the Center for Drug Evaluation and Research and the Center for Biologics Evaluation and Research in achieving the goals, and future plans for meeting the goals, including for each review division.
  - Reference: 21 U.S.C. § 379h-2(a) (2017)
- Beginning with fiscal year 2013, not later than 120 days after the end of each fiscal year for which fees are collected under this subpart, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected for such fiscal year.
  - Reference: 21 U.S.C. § 379h-2(b) (2017)
- Beginning with fiscal year 2013, for each fiscal year for which fees are collected under this subpart, the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives annual reports concerning the progress of the Food and Drug Administration in achieving the goals identified in the letters described in section 201(b) of the Medical Device User Fee Amendments of 2012 during such fiscal year and the future plans of the Food and Drug Administration for meeting the goals.
  - Reference: 21 U.S.C. § 379j-1(a)(1)(A) (2017)
- For fiscal years 2013 through 2017, not later than 120 days after the end of each fiscal year during which fees are collected under this subpart, the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report on the

implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected during such fiscal year for which the report is made.

- Reference: 21 U.S.C. § 379j-1(a)(2) (2017)
- Beginning with fiscal year 2014, not later than 120 days after the end of each fiscal year for which fees are collected under this subpart, the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives an annual report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letters described in section 101(b) of the Animal Drug User Fee Amendments of 2013 toward expediting the animal drug development process and the review of the new and supplemental animal drug applications and investigational animal drug submissions during such fiscal year, the future plans of the Food and Drug Administration for meeting the goals, the review times for abbreviated new animal drug applications, and the administrative procedures adopted by the Food and Drug Administration to ensure that review times for abbreviated new animal drug applications are not increased from their current level due to activities under the user fee program.
  - Reference: 21 U.S.C. § 379j-13(a) (2017)
- Beginning with fiscal year 2014, not later than 120 days after the end of each fiscal year during which fees are collected under this subpart, the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected during such fiscal year for which the report is made.
  - Reference: 21 U.S.C. § 379j-13(b) (2017)
- Beginning with fiscal year 2014, not later than 120 days after the end of each fiscal year for which fees are collected under this subpart, the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives an annual report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letters described in section 201(b) of the Animal Generic Drug User Fee Amendments of 2013 toward expediting the generic new animal drug development process and the review of abbreviated applications for generic new animal drugs, supplemental abbreviated applications for generic new animal drugs, and investigational submissions for generic new animal drugs during such fiscal year.
  - Reference: 21 U.S.C. § 379j-22(a) (2017)
- Beginning with fiscal year 2014, not later than 120 days after the end of each fiscal year during which fees are collected under this subpart, the Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected during such fiscal year for which the report is made.
  - Reference: 21 U.S.C. § 379j-22(b) (2017)

- Not later than 120 days after each fiscal year for which fees are assessed under this section, the Secretary shall submit a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, to include a description of fees assessed and collected for each such year and a summary description of the entities paying such fees and types of business in which such entities engage.
  - Reference: 21 U.S.C. § 379j-31(f) (2017)
- Beginning with fiscal year 2013, not later than 120 days after the end of each fiscal year for which fees are collected under this subpart, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letters described in section 301(b) of the Generic Drug User Fee Amendments of 2012 during such fiscal year and the future plans of the Food and Drug Administration for meeting the goals.
  - Reference: 21 U.S.C. § 379j-43(a) (2017)
- Beginning with fiscal year 2013, not later than 120 days after the end of each fiscal year for which fees are collected under this subpart, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected for such fiscal year.
  - Reference: 21 U.S.C. § 379j-43(b) (2017)
- Beginning with fiscal year 2013, not later than 120 days after the end of each fiscal year for which fees are collected under this subpart, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letters described in section 401(b) of the Biosimilar User Fee Act of 2012 during such fiscal year and the future plans of the Food and Drug Administration for meeting such goals.
  - Reference: 21 U.S.C. § 379j-53(a) (2017)
- Not later than 120 days after the end of fiscal year 2013 and each subsequent fiscal year for which fees are collected under this subpart, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected for such fiscal year.
  - Reference: 21 U.S.C. § 379j-53(b) (2017)
- Not later than 120 calendar days after each fiscal year in which fees are assessed and collected under this section, the Secretary shall submit a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, to include a description of fees assessed and collected for such year, a summary description of entities paying the fees, a description of the hiring and placement of new staff, a description of the use of fee resources to support

inspecting outsourcing facilities, and the number of inspections and reinspections of such facilities performed each year.

- Reference: 21 U.S.C. § 379j-62(h) (2017)
- Beginning with fiscal year 2009, the Commissioner shall submit to Congress an annual report summarizing the incorporation of the information provided by the [Reagan-Udall] Foundation in the report described under section 379dd(1)(2) of this title and by other recipients of grants, contracts, memoranda of understanding, or cooperative agreements into regulatory and product review activities of the Food and Drug Administration.
  - Reference: 21 U.S.C. § 379dd-2(b) (2017)
- Not later than 3 years after June 22, 2009, and not less than every 2 years thereafter, the Secretary of Health and Human Services [acting through the FDA's Center for Tobacco Products]<sup>161</sup> shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, a report concerning the progress of the Food and Drug Administration in implementing this division, including major accomplishments, objective measurements of progress, and the identification of any areas that have not been fully implemented; impediments identified by the Food and Drug Administration to progress in implementing this division and to meeting statutory timeframes; data on the number of new product applications received under section 387j of this title and modified risk product applications received under section 387k of this title, and the number of applications acted on under each category; and data on the number of full time equivalents engaged in implementing this division.
  - Reference: 21 U.S.C. § 387u(a) (2017)
- Not later than February 1 of each year, the Secretary shall submit to Congress a report, including efforts to coordinate and cooperate with other Federal agencies with responsibilities for food inspections, regarding . . . information on the foreign offices of the Food and Drug Administration including the number of foreign offices established and the number of personnel permanently stationed in each foreign office.
  - Reference: 21 U.S.C. § 393(h)(3) (2017)

*Review Commissions:* None

*Advisory Commissions:* At least biannually, the Secretary shall seek recommendations from the Drug Safety and Risk Management Advisory Committee (or any successor committee) and from other advisory committees, as appropriate, to the Food and Drug Administration on priority drug safety questions and mechanisms for answering such questions, including through active risk identification under paragraph (3) and when such risk identification is not sufficient, postapproval studies and clinical trials under subsection (o)(3).

- Reference: 21 U.S.C. § 355(k)(4)(C) (2017)
- The Advisory Committee on Risk Communication under section 360bbb-6 of this title shall, on a regular basis, perform a comprehensive review and evaluation of the types of risk communication information provided on the Internet Web site established under paragraph (1) and, through other means, shall identify, clarify, and define the purposes and types of information available to facilitate the efficient flow of information to patients and providers, and shall recommend ways for the Food and Drug Administration

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<sup>161</sup> 21 U.S.C. § 387a(e) (2017)

to work with outside entities to help facilitate the dispensing of risk communication information to patients and providers.

- Reference: 21 U.S.C. § 355(r)(6) (2017)
- Prior to the approval of a drug no active ingredient (including any ester or salt of the active ingredient) or which has been approved in any other application under this section or section 262 of Title 42, the Secretary shall refer such drug to a Food and Drug Administration advisory committee for review at a meeting of such advisory committee or if the Secretary does not refer such a drug to a Food and Drug Administration advisory committee prior to the approval of the drug, provide in the action letter on the application for the drug a summary of the reasons why the Secretary did not refer the drug to an advisory committee prior to approval.
  - Reference: 21 U.S.C. § 355(s) (2017)
- The Secretary, through the Drug Safety and Risk Management Advisory Committee (or successor committee) or other advisory committee of the Food and Drug Administration, shall seek input from patients, physicians, pharmacists, and other health care providers about how elements to assure safe use under this subsection for 1 or more drugs may be standardized so as not to be unduly burdensome on patient access to the drug and to the extent practicable, minimize the burden on the health care delivery system; periodically evaluate, for 1 or more drugs, the elements to assure safe use of such drug to assess whether the elements assure safe use of the drug, are not unduly burdensome on patient access to the drug, and to the extent practicable, minimize the burden on the health care delivery system; and considering such input and evaluations issue or modify agency guidance about how to implement the requirements of this subsection and modify elements under this subsection for 1 or more drugs as appropriate.
  - Reference: 21 U.S.C. § 355-1(f)(5) (2017)
- The Secretary may convene a meeting of 1 or more advisory committees of the Food and Drug Administration to review a concern about the safety of a drug or class of drugs, including before an assessment of the risk evaluation and mitigation strategy or strategies of such drug or drugs is required to be submitted under subparagraph (B) or (C) of subsection (g)(2); review the risk evaluation and mitigation strategy or strategies of a drug or group of drugs or; review a dispute under paragraph (3) or (4).
  - Reference: 21 U.S.C. § 355-1(h)(5) (2017)
- Not later than 90 days after receiving a referral under subparagraph (A)(ii) [request for labeling change], the Pediatric Advisory Committee shall review the pediatric study reports and make a recommendation to the Commissioner concerning appropriate labeling changes, if any. The Commissioner shall consider the recommendations of the pediatric Advisory Committee and, if appropriate, not later than 30 days after receiving the recommendation, make a request to the sponsor of the application to make any labeling change that the commissioner determines to be appropriate.
  - Reference: 21 U.S.C. § 355a(i)(2) (2017)
- In considering the reports, the Director of such Office [of Pediatric Therapeutics] may provide for the review of such reports [adverse event reports] by the Pediatric Advisory Committee, including obtaining any recommendation of such Committee regarding whether the Secretary should take action in response to such reports.
  - Reference: 21 U.S.C. § 355a(l) (2017)

- During the one year beginning on the date on which a drug receives a period of market exclusivity under 505A of the Federal Food, Drug, and Cosmetic Act, any report of an adverse event regarding the drug that the Secretary of Health and Human Services receives shall be referred to the Office of Pediatric Therapeutics established under section 393a of this title. In considering the report, the Director of such Office shall provide for the review of the report by the Pediatric Advisory Committee, including obtaining any recommendation of such committee regarding whether the Secretary should take action under the Federal Food, Drug, and Cosmetic Act in response to the report.
  - Reference: 21 U.S.C. § 355b(b)(1) (2017)
- If, on or after September 27, 2007, the Commissioner determines that a sponsor and the Commissioner have been unable to reach agreement on appropriate changes to the labeling for the drug that is the subject of the application or supplement, not later than 180 days after the date of the submission of the application or supplement that receives a priority review or 330 days after the date of the submission of an application or supplement that receives a standard review the Commissioner shall request that the sponsor of the application make any labeling change that the Commissioner determines to be appropriate and if the sponsor does not agree within 30 days after the Commissioner's request to make a labeling change requested by the Commissioner, the Commissioner shall refer the matter to the Pediatric Advisory Committee. . .The Commissioner shall consider the recommendations of the Pediatric Advisory Committee and, if appropriate, not later than 30 days after receiving the recommendation, make a request to the sponsor of the application or supplement to make any labeling changes that the Commissioner determines to be appropriate.
  - Reference: 21 U.S.C. § 355c(g)(1) (2017)
- In considering such reports [adverse event reports], the Director of such Office [of Pediatric Therapeutics] shall provide for the review of such reports by the Pediatric Advisory Committee, including obtaining any recommendations of such committee regarding whether the Secretary should take action under this chapter in response to such reports.
  - Reference: 21 U.S.C. § 355c(i)(2017)
- The Secretary shall establish an internal committee within the Food and Drug Administration to carry out the activities described in 355a(f) and 355c(f) of this title [Pediatric Advisory Committee].
  - Reference: 21 U.S.C. § 355d (2017)
- The Secretary shall refer any report of an adverse event regarding a device described in paragraph (6)(A)(i)(1) [intended for treatment or diagnosis of a disease or condition that occurs in pediatric patients] for which the prohibition under paragraph (3) does not apply pursuant to paragraph (6)(A) that the Secretary receives to the Office of Pediatric Therapeutics, established under section 393a of this title. In considering the report, the Director of the Office of Pediatric Therapeutics, in consultation with experts in the Center for Devices and Radiological Health, shall provide for periodic review of the report by the Pediatric Advisory Committee, including obtaining any recommendations of such committee regarding whether the Secretary should take action under this chapter in response to the report. The Secretary, acting through the Office of Pediatric Therapeutics and the Center for Devices and Radiological Health, shall provide for an annual review by the Pediatric Advisory Committee of all devices described in paragraph (6)(A)(i)(1) to

ensure that the exemption under paragraph (2) remains appropriate for the pediatric populations for which it is granted.

- Reference: 21 U.S.C. § 360j(m)(7)-(8) (2017)
- The Secretary shall establish an advisory committee to be known as the Advisory Committee on Risk Communication. The Committee shall advise the Commissioner on methods to effectively communicate risks associated with the products regulated by the Food and Drug Administration.
  - Reference: 21 U.S.C. § 360bbb-6(a) (2017)
- In case of a proposed sunscreen order under paragraph (3), (4), or (5) [involving request for review by the Commissioner], an Advisory Committee meeting may be convened for the purpose of reviewing and providing recommendations regarding the pending request.
  - Reference: 21 U.S.C. § 360fff-3(b)(8) (2017)
- A nonprofit corporation to be known as the Reagan-Udall Foundation for the Food and Drug Administration shall be established in accordance with this section. . . The Foundation shall. . . provide objective clinical and scientific information to the Food and Drug Administration.
  - Reference: 21 U.S.C. § 379dd (2017)
- The Secretary [acting through the FDA’s Center for Tobacco Products]<sup>162</sup> shall before promulgating any regulation under subparagraph (A), afford the Tobacco Products Scientific Advisory Committee an opportunity to submit recommendations with respect to the regulation proposed to be promulgated.
  - Reference: 21 U.S.C. § 387f(e)(1)(B)(i) (2017)
- The Secretary [acting through the FDA’s Center for Tobacco Products]<sup>163</sup> may refer to the Tobacco Products Scientific Advisory Committee any petition submitted under subparagraph 9(A).
  - Reference: 21 U.S.C. § 387f(e)(2)(B) (2017)
- The Secretary [acting through the FDA’s Center for Tobacco Products]<sup>164</sup> may refer a proposed regulation for the establishment, amendment, or revocation of a tobacco product standard to the Tobacco Products Scientific Advisory Committee for a report and recommendation with respect to any matter involved in the proposed regulation which requires the exercise of scientific judgment.
  - Reference: 21 U.S.C. § 387g(d)(5) (2017)
- The Secretary [acting through the FDA’s Center for Tobacco Products]<sup>165</sup> shall refer to the Tobacco Products Scientific Advisory Committee for report and recommendation, under section 387q(c)(4) of this title, the issue of the nature and impact of the use of dissolvable tobacco products on the public health, including such use among children.
  - Reference: 21 U.S.C. § 387g(f)(1) (2017)
- Upon receipt of an application meeting the requirements set forth in paragraph (1) [for review of certain tobacco products], the Secretary [acting through the FDA’s Center for Tobacco Products]<sup>166</sup> may, on the Secretary’s own initiative or may, upon the request of

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<sup>162</sup> 21 U.S.C. § 387a(e) (2017)

<sup>163</sup> 21 U.S.C. § 387a(e) (2017)

<sup>164</sup> 21 U.S.C. § 387a(e) (2017)

<sup>165</sup> 21 U.S.C. § 387a(e) (2017)

<sup>166</sup> 21 U.S.C. § 387a(e) (2017)

an applicant, refer such application to the Tobacco Products Scientific Advisory Committee for reference and for submission (within such period as the Secretary may establish) of a report and recommendation respecting the application, together with all underlying data and the reasons or basis for the recommendation.

- Reference: 21 U.S.C. § 387j(b)(2) (2017)
- The Secretary [acting through the FDA’s Center for Tobacco Products]<sup>167</sup> shall refer to the Tobacco Products Scientific Advisory Committee any application [for modified risk tobacco products] submitted under this section.
  - Reference: 21 U.S.C. § 387k(f)(1) (2017)
- The Commissioner of Food and Drugs may establish such technical and scientific review groups as are needed to carry out the functions of the Food and Drug Administration (including functions prescribed under this chapter).
  - Reference: 21 U.S.C. § 394 (2017)

*Action Require Outside Approval:* The Secretary of Health and Human Services shall review and, as appropriate, revise not fewer than 3 guidance documents per year, which shall include reviewing the guidance documents of the Food and Drug Administration for the conduct of clinical trials with respect to antibacterial and antifungal drugs and as appropriate, revising such guidance documents to reflect developments in scientific and medical information and technology and to ensure clarity regarding the procedures and requirements for approval of antibacterial and antifungal drugs under chapter V of the Federal Food, Drug, and Cosmetic Act.

- Reference: 21 U.S.C. § 360a-1(a) (2017)
- Reference: Not less than once every 5 years, the Secretary shall review guidance of the Food and Drug Administration with respect to advisory committees regarding disclosure of conflicts of interest and the application of section 208 of Title 18 and update such guidance as necessary to ensure that the Food and Drug Administration receives appropriate access to needed scientific expertise, with due consideration of the requirements of such section 208.
  - Reference: 21 U.S.C. § 379d-1 (2017)

*Legislative Veto:* None

*Adjudication:*<sup>168</sup> The Secretary may not take any action under subsection (a) [withdraw approval of abbreviated drug application] of this section with respect to any person unless the Secretary has issued an order for such action made on the record after opportunity for an agency hearing on disputed issues of material fact. In the course of any investigation or hearing under this subsection, the Secretary may administer oaths and affirmations, examine witnesses, receive evidence, and issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence that relates to the matter under investigation.

- Reference: 21 U.S.C. § 335c(b) (2017)

## **Health Resources and Services Administration**

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<sup>167</sup> 21 U.S.C. § 387a(e) (2017)

<sup>168</sup> Employs administrative law judges. Association of Administrative Law Judges. “Agencies Employing Administrative Law Judges,” <http://www.aalj.org/agencies-employing-administrative-law-judges> (accessed October 30, 2017).

*Date of Creation:* August 20, 1982<sup>169</sup>  
*Statute:* Not established in U.S. Code

### **Indian Health Service**

*Date of Creation:* July 1, 1955  
*Statute:* 25 U.S.C. §§ 1601-1685

*Authorizing Language:* In order to more effectively and efficiently carry out the responsibilities, authorities, and functions of the United States to provide health care services to Indians and Indian tribes, as are or may be on and after November 23, 1988, provided by Federal statute or treaties, there is established within the Public Health Service of the Department the Indian Health Service.

- Reference: 25 U.S.C. § 1661(a)(1) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* The Secretary may pay a retention bonus to any physician or nurse employed by, or assigned to, and serving in, the Service as a civilian employee or as a commissioned officer in the Regular or Reserve Corps of the Public Health Service who is assigned to, and serving in, a position included in the list established under section 1616i(b)(1) of this title for which recruitment or retention of personnel is difficult, the Secretary determines is needed by the Service, has completed 3 years of employment with the Service, or completed any service obligations incurred as a requirement of any Federal scholarship program, or any Federal education loan repayment program, and enters into an agreement with the Service for continued employment for a period of not less than 1 year.

- Reference: 25 U.S.C. § 1616j(a) (2017)

*Limitation on Appointment:* Any individual employed as a psychologist, social worker, or marriage and family therapist for the purpose of providing mental health care services to Indians in a clinical setting under this chapter is required to be licensed as a psychologist, social worker, or marriage and family therapist, respectively. An individual may be employed as a trainee in psychology, social work, or marriage and family therapy to provide mental health care services described in subsection (a) if such individual works under the direct supervision of a licensed psychologist, social worker, or marriage and family therapist respectively; is enrolled in or has completed at least 2 years of course work at a post-secondary, accredited education program for psychology, social work, marriage and family therapy, or counseling; and meets such other training, supervision, and quality review requirements as the Secretary may establish.

- Reference: 25 U.S.C. § 1665e (2017)

*Party Balancing:* N/A

*Fixed Terms:* Effective with respect to an individual appointed by the President, by and with the advice and consent of the Senate, after January 1, 2008, the term of service of the Director shall be 4 years. A Director may serve more than 1 term.

- Reference: 25 U.S.C. § 1661(a)(2) (2017)

*Staggered Terms:* N/A

*For Cause:* N/A

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<sup>169</sup> HHS Reorganization Order.

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The Service shall be administered by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 25 U.S.C. § 1661(a)(2) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* There is established in the Treasury of the United States a fund to be known as the Indian Health Scholarship and Loan Repayment Recovery Fund. The Fund shall consist of such amounts as may be appropriated to the Fund under subsection (b) of this section. Amounts appropriated for the Fund shall remain available until expended. . . Amounts in the Fund and available pursuant to appropriation Acts may be expended by the Secretary, acting through the Service, to make payments to an Indian tribe or tribal organization administering a health care program pursuant to a contract entered into under the Indian Self-Determination Act to which a scholarship recipient under section 1613a of this title or a loan repayment program participant under section 1616a of this title has been assigned to meet the obligated service requirements pursuant to [such] sections and that has a need for a health professional to provide health care services as a result of such recipient or participant having breached the contract entered into under section 1613a of this title or section 1616a of this title. . . The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund.

- Reference: 25 U.S.C. 1616a-1 (2017)
- There is established an Indian Catastrophic Health Emergency Fund consisting of the amounts deposited under subsection (f) [all reimbursements to which the Service is entitled from any Federal, State, local, or private source (including third party insurance) by reason of treatment rendered to any victim of a disaster or catastrophic illness the cost of which was paid from CHEF] and the amounts appropriated to CHEF under this section. CHEF shall be administered by the Secretary, acting through the headquarters of the Service, solely for the purpose of meeting the extraordinary medical costs associated with the treatment of victims of disasters or catastrophic illnesses who are within the responsibility of the Service.
  - Reference: 25 U.S.C. § 1621a (2017)
- Except as provided in sections 1621a(a)(2) and 1680c of this title, all reimbursements received or recovered under any of the programs described in paragraph (2), including under section 1680c of this title, by reason of the provision of health services by the Service, by an Indian tribe or tribal organization, or by an urban Indian organization, shall be credited to the Service, such Indian tribe or tribal organization, or such urban Indian organization, respectively, and may be used as provided in section 1641 of this title. In the case of such a service provided by or through a Service Unit, such amounts shall be credited to such unit and used for such purposes.
  - Reference: 25 U.S.C. § 1621f(a) (2017)
- Money before, on, and after September 30, 1994, collected for meals served at Indian Health Service facilities will be credited to the appropriations from which the services were furnished and shall be credited to the appropriation when received.

- Reference: 25 U.S.C. § 1638d (2017)
- Notwithstanding any other provision of law, but subject to paragraph (2) [direct payments], payments to which a facility of the Service is entitled by reason of provision of title XVIII or XIX of the Social Security Act shall be placed in a special fund to be held by the Secretary. In making payments from such fund, the Secretary shall ensure that each Service unit of the Service receives 100 percent of the amount to which the facilities of the Service, for which such Service unit makes collections, are entitled by reason of a provision of either such title. Amounts received by a facility of the Service under subparagraph (A) by reason of provision of title XVIII or XIX of the Social Security Act shall first be used (to such extent or in such amounts as are provided in appropriation Acts) for the purpose of making any improvements in the programs of the Service operated by or through such facility which may be necessary to achieve or maintain compliance with the applicable conditions and requirements of such respective title. Any amounts so received that are in excess of the amount necessary to achieve or maintain such conditions and requirements shall, subject to consultation with the Indian tribes being served by the Service unit, be used for reducing the health resource deficiencies (as determined in section 1621(c) of this title) of such Indian tribes, including the provision of services pursuant to section 1621d of this title.
  - Reference: 25 U.S.C. § 1641(c)(1) (2017)
- \$10,000,000 shall remain available until expended, for the establishment of an Indian Catastrophic Health Emergency Fund. On and after October 18, 1986, the Fund is to cover the Indian Health Service portion of the medical expenses of catastrophic illness falling within the responsibility of the Service and shall be administered by the Secretary of Health and Human Services, acting through the central office of the Indian Health Service. . . There shall be deposited into the Fund all amounts recovered under the authority of the Federal Medical Care Recovery Act, which shall become available for obligation upon receipt and which shall remain available for obligation until expended.
  - Reference: 25 U.S.C. § 1683 (2017)
- There is established in the Treasury of the United States a fund, to be known as the “Emergency Fund for Indian Safety and Health,” consisting of such amounts as are appropriated to the Fund under subsection (b). . . Amounts deposited in the Fund under this section shall be made available without further appropriation; be in addition to amounts made available under any other provision of law; and remain available until expended. . . the Secretary of Health and Human Services, acting through the Director of the Indian Health Service, shall use 12.5 percent to provide, directly or through contracts or compacts with Indian tribes under the Indian Self-Determination and Education Assistance Act contract health services; construction, rehabilitation, and replacement of Indian Health facilities; and domestic and community sanitation facilities serving members of Indian tribes pursuant to section 2004a of title 42.
  - Reference: 25 U.S.C. § 1684 (2017)

*Reporting Requirements:* The Secretary shall submit to the President, for inclusion in each report required to be submitted to the Congress under section 167a of this title, a report concerning the previous fiscal year which sets forth the health professional positions maintained by the Service or by tribal or Indian organizations for which recruitment or retention is difficult; the number of Loan Repayment Program applications filed with respect to each type of health profession; the number of contracts described in subsection

(f) of this section that are entered into with respect to each health profession; the amount of loan repayments made under this section, in total and by health profession; the number of scholarship grants that are provided under section 1613a of this title with respect to each health profession; the amount of scholarship grants provided under section 1613a of this title, in total and by health profession; the number of providers of health care that will be needed by Indian health programs, by location and profession, during the three fiscal years beginning after the date the report is filed; and the measures the Secretary plans to take to fill the health professional positions maintained by the Service or by tribes or tribal or Indian organizations for which recruitment or retention is difficult.

- Reference: 25 U.S.C. § 1616a(n) (2017)
- Not later than 180 days after the close of the term of the last grant awarded pursuant to this subsection, the Secretary [acting through the Service] shall submit to the Congress a report evaluating the effectiveness of the innovative community-based projects demonstrated pursuant to this subsection. Such report shall include findings and recommendations, if any, relating to the reorganization of the programs of the Service for delivery of mental health services to Indians.
  - Reference: 25 U.S.C. § 1621h(k)(5) (2017)
- In carrying out this section, the Secretary [acting through the Service] shall prepare and submit a report to Congress biennially on the use of funds under this section and on the progress made toward the prevention, control, and elimination of communicable and infectious diseases among Indians and urban Indians.
  - Reference: 25 U.S.C. § 1621q(d)(2) (2017)
- The Secretary [acting through the Service] shall submit to the President, for inclusion in the report required to be transmitted to Congress under section 1671 of this title, a report which sets forth the following: a description of the health care facility priority system of the Service established under paragraph (1); health care facilities lists. . .; the justification for such order of priority; the projected costs of such programs; the methodology adopted by the Service in establishing priorities under its health care facility priority system.
  - Reference: 25 U.S.C. § 1631(c)(2)(B) (2017)
- The Secretary [acting through the Service] shall submit to the President, for inclusion in the report required to be transmitted to Congress under section 1671 of this title, a report which sets forth the current Indian sanitation facility priority system of the Service; the methodology for determining sanitation deficiencies; the level of sanitation deficiency for each sanitation facilities project of each Indian tribe or community; the amounts of funds necessary to raise all Indian tribes and communities to a level I sanitation deficiency; and the amount of funds necessary to raise all Indian tribes and communities to zero sanitation deficiency.
  - Reference: 25 U.S.C. § 1632(g) (2017)
- Not later than 1 year after the date on which funds are made available for the demonstration program and annually thereafter, the Secretary [acting through the Service] shall submit to Congress a report describing each activity carried out under the demonstration program, including an evaluation of the success of the activity and the potential benefits of increased use of modular component health care facilities in other Indian communities.
  - Reference: 25 U.S.C. § 1638f(e) (2017)

- Not later than 1 year after the date on which the demonstration program is established under subsection (b) and annually thereafter, the Secretary, acting through the Service, shall submit to Congress a report describing each activity carried out under the demonstration program including an evaluation of the success of the activity and the potential benefits of increased use of mobile health stations to provide specialty health care services for Indian communities.
  - Reference: 25 U.S.C. § 1638g(e) (2017)
- The Secretary shall submit to the President, for inclusion in the report required to be transmitted to the Congress under section 1671 of this title, an accounting on the amount and use of funds made available to the Service pursuant to this subchapter as a result of reimbursements through Titles XVIII and XIX of the Social Security Act, as amended.
  - Reference: 25 U.S.C. § 1643 (2017)
- The Secretary shall evaluate and report to the Congress on the activities of the programs funded under this section [urban Indian alcohol programs administered by the Service] at least every 5 years.
  - Reference: 25 U.S.C. § 1660c(e) (2017)
- The Secretary, acting through the Service, and the Secretary of the Interior shall develop and enter into a memoranda of agreement, or review and update any existing memoranda of agreement. . .under which the Secretaries address the following. . . providing for an annual review of such agreement by the Secretaries which shall be provided to Congress and Indian tribes and tribal organizations.
  - Reference: 25 U.S.C. § 1665b(a)(8) (2017)
- Notwithstanding any other provision of law, any allocation of Service funds for a fiscal year that reduces by 5 percent or more from the previous fiscal year the funding for any recurring program, project, or activity of a service unit may be implemented only after the Secretary has submitted to the President, for inclusion in the report required to be transmitted to the Congress under section 1671 of this title, a report on the proposed change in allocation of funding, including the reasons for the change and its likely effects.
  - Reference: 25 U.S.C. § 1680g(a) (2017)
- Not later than 2 years after March 23, 2010, and not less frequently than once every 2 years thereafter, the Director [of HIV/AIDS Prevention and Treatment (located within the Service)] shall submit to Congress a report describing, with respect to the preceding 2-year period each activity carried out under this section and any findings of the Director with respect to HIV/AIDS prevention and treatment activities specific to Indians.
  - Reference: 25 U.S.C. § 1680v(c) (2017)

*Review Commissions:* None

*Advisory Commissions:* The Secretary, acting through the Service, shall establish a neutral panel to carry out the study under paragraph (2). . .The neutral panel established under paragraph (1) shall conduct a study of the dental health aide therapist services provided by the Community Health Aide Program, under this section to ensure that the quality of care provided through those services is adequate and appropriate.

- Reference: 25 U.S.C. § 1616l(c)(2) (2017)
- The Secretary, acting through the Service, may fund demonstration programs for Indian health programs to address the chronic shortages of health professionals. . .The demonstration programs established pursuant to subsection (a) shall incorporate a

program advisory board, which may be composed of representatives of tribal governments, Indian health programs, and Indian communities in the areas to be served by the demonstration programs.

- Reference: 25 U.S.C. § 1616p(c) (2017)

*Action Require Outside Approval:* The Secretary acting through the Service, and the Secretary of the Interior shall develop and enter into a memoranda of agreement, or review and update any existing memoranda of agreement. . .under which the Secretaries address the following. . .the responsibilities of the Bureau of Indian Affairs and the Service, including mental illness identification, prevention, education, referral, and treatment services (including services through multidisciplinary resource teams), at the central, area, and agency and Service unit, Service area, and headquarters levels to address the problems identified in paragraph (1) [scope and nature of mental illness and dysfunctional and self-destructive behavior]; a strategy for the comprehensive coordination of behavioral health services provided by the Bureau of Indian Affairs and the Service to meet the problems identified pursuant to paragraph (1). . .; directing appropriate officials of the Bureau of Indian Affairs and the Service, particularly at the agency and Service unit levels, to cooperate fully with tribal requests made pursuant to community behavioral health plans adopted under section 1665a(c) of this title and section 4206 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986; providing for an annual review of such agreement by the Secretaries which shall be provided to Congress and Indian tribes and tribal organizations.

- Reference: 25 U.S.C. § 1665b(a) (2017)

*Legislative Veto:* None

*Adjudication:* None

### **National Institutes of Health**

*Date of Creation:* 1887<sup>170</sup>

*Statute:* 42 U.S.C. §§ 281-283q (2017)

*Authorizing Language:* The National Institutes of Health is an agency of the [Public Health] Service.

- Reference: 42 U.S.C. § 281(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

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<sup>170</sup> The National Institutes of Health began as a laboratory created within the Marine Hospital Service and funded through routine appropriations. <https://history.nih.gov/exhibits/history/>. The laboratory was officially named the National Institutes of Health on May 26, 1930. Pub. L. No. 251, 46 Stat. 379 (1930).

*Who is Head of Agency:* The National Institutes of Health shall be headed by the Director of NIH who shall be appointed by the President by and with the advice and consent of the Senate.

- Reference: 42 U.S.C. § 282(a) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* In carrying out the purposes of section 241 of this title, the Secretary, acting through the Director of NIH. . .may, subject to appropriations Acts, collect and retain registration fees obtained from third parties to defray expenses for scientific, educational, and research-related conferences.

- Reference: 42 U.S.C. § 282(b)(13) (2017)
- For the purpose of allocations under section 282(b)(7)(B) of this title (relating to research identified by the Division of Program Coordination, Planning, and Strategic Initiatives), there is established an account to be known as the Common Fund.
- Reference: 42 U.S.C. § 282a(c)(1) (2017)

*Reporting Requirements:* The Secretary may establish in the National Institutes of Health one or more additional national research institutes to conduct and support research, training, health information, and other programs with respect to any particular disease or groups of diseases or any other aspect of human health if the Secretary determines that an additional institute is necessary to carry out such activities and the additional institute is not established before the expiration of 180 days after the Secretary has provided the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate written notice of the determination made under clause (i) with respect to the Institute.

- Reference: 42 U.S.C. § 281(d)(2)(A) (2017)
- The Secretary may reorganize the functions of any national research institute and may abolish any national research institute if the Secretary determines that the institute is no longer required. A reorganization or abolition may not take effect under this paragraph before the expiration of 180 days after the Secretary has provided the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate written notice of the reorganization or abolition.
- Reference: 42 U.S.C. § 281(d)(2)(B) (2017)
- Paragraph (1) [regarding organizational changes per recommendation of Scientific Management Review Board] does not apply to a recommendation for an organizational change made in a report under subsection (e)(2)(A) if, not later than 90 days after the report is submitted under subsection (e)(7)(A), the Director of NIH submits to the committees specified in such subsection a report providing that the Director objects to the change, which report includes the reasons underlying the objection.
- Reference: 42 U.S.C. § 281(f)(3)(A) (2017)
- Not later than 30 days after any part of a waiver [regarding certain clinical trial results] is granted, the Secretary [acting through the Director] shall notify, in writing, the appropriate committees of Congress of the waiver and provide an explanation for why the waiver was granted.
- Reference: 42 U.S.C. § 282(j)(3)(H) (2017)
- Not later than 2 years after December 13, 2016, and at least every 6 years thereafter, the Director of the National Institutes of Health shall develop and submit to the appropriate

committees of Congress. . . a coordinated strategy to provide direction to the biomedical research investments made by the National Institutes of Health, to facilitate collaboration across the institutes and centers, to leverage scientific opportunity and to advance biomedicine.

- Reference: 42 U.S.C. § 282(m) (2017)
- During the 6-month period following the end of the first fiscal year for which the total amount reserved under subparagraph (B) is equal to 5 percent of the total amount appropriated under subsection (a)(1) for such fiscal year, the Secretary, acting through the Director of NIH, in consultation with the advisory council established under section 282(k) of this title, shall submit recommendations to Congress for changes regarding amounts for the Common Fund.
  - Reference: 42 U.S.C. § 282a(c)(1)(D) (2017)
- The Director of NIH shall submit to the Congress on a triennial basis a report in accordance with this section. The first report shall be submitted not later than 1 year after January 15, 2007. Each such report shall include the following information: [summary and assessment of research activities of the NIH].
  - Reference: 42 U.S.C. § 283(a) (2017)
- On an annual basis, the Director of NIH shall submit to the Congress a report that describes how the National Institutes of Health and its agencies store and track human tissue samples.
  - Reference: 42 U.S.C. § 283a(c) (2017)
- On an annual basis, the Director of NIH shall submit to the . . . Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate a report summarizing the activities of the National Institutes of Health relating to whistleblower complaints.
  - Reference: 42 U.S.C. § 283a-1(a)(1) (2017)
- Not later than 180 days after November 27, 2013, the Director of the National Institutes of Health shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate and the Committee on Energy and Commerce and the Committee on Appropriations in the House of Representatives a report, to be updated biennially, regarding the care, maintenance, and transportation of the chimpanzees under the ownership or control of the National Institutes of Health; costs related to such care, maintenance, and transportation, and any other related costs; and the research status of such chimpanzees.
  - Reference: 42 U.S.C. § 283m(3) (2017)

*Review Commissions:* There is established a Scientific and Technical Review Board on Biomedical and Behavioral Research Facilities. The Director of NIH, acting through the Office of the Director of NIH, may approve an application for a grant under subsection (a) of this section [grants to expand, remodel, etc. research facilities] only if the Board has under paragraph (2) recommended the application for approval.

- Reference: 42 U.S.C. § 283k(b) (2017)

*Advisory Commissions:* Not later than 60 days after January 15, 2007, the Secretary shall establish an advisory council within the National Institutes of Health to be known as the Scientific Management Review Board. The Board shall provide advice to the appropriate officials under subsection (d) regarding the use of the authorities established in

paragraphs (2), (3), and (4) of such subsection to reorganize the National Institutes of Health.

- Reference: 42 U.S.C. § 281(e) (2017)
- In carrying out the purposes of section 241 of this title, the Secretary, acting through the Director of NIH, . . . may . . . establish such technical and scientific peer review groups and scientific program advisory committees as are needed to carry out the requirements of this subchapter.
  - Reference: 42 U.S.C. § 282(b)(16) (2017)
- Not later than 90 days after January 15, 2007, the Director of NIH shall establish within the Office of the Director an advisory council to be known as the Council of Councils for the purpose of advising the Director on matters related to the policies and activities of the Division of Program Coordination, Planning, and Strategic Initiatives, including making recommendations with respect to the conduct and support of research described in subsection (b)(7).
  - Reference: 42 U.S.C. § 282(l) (2017)
- During the 6-month period following the end of the first fiscal year for which the total amount reserved under subparagraph (B) is equal to 5 percent of the total amount appropriated under subsection (a)(1) for such fiscal year, the Secretary, acting through the Director of NIH, in consultation with the advisory council established under section 282(k) of this title, shall submit recommendations to Congress for changes regarding amounts for the Common Fund.
  - Reference: 42 U.S.C. § 282a(c)(1)(D) (2017)
- The Director of NIH shall establish within the National Institutes of Health a committee to be known as the Interagency Coordinating Committee on the Use of Animals in Research. The Committee shall provide advice to the Director of NIH on the preparation of the plan required in subsection (a) of this section [plan and periodic updates for NIH to support research that does not require the use of animals or reduces the number and pain of animals used in research].
  - Reference: 42 U.S.C. § 283e(e) (2017)
- The Secretary shall establish the Muscular Dystrophy Coordinating Committee to coordinate activities across the National Institutes and with other Federal health programs and activities relating to the various forms of muscular dystrophy.
  - Reference: 42 U.S.C. § 283g(d) (2017)

*Action Require Outside Approval:* Notwithstanding subsection (c) of this section, the Director of NIH may, after a series of public hearings, and with the approval of the Secretary, reorganize offices within the Office of the Director, including the addition, removal, or transfer of functions of such offices, and the establishment or termination of such offices, if the Director determines that the overall management and operation of programs and activities conducted or supported by such offices would be more efficiently carried out under such a reorganization.

- Reference: 42 U.S.C. § 281(d)(3) (2017)
- There is established a Scientific and Technical Review Board on Biomedical and Behavioral Research Facilities. The Director of NIH, acting through the Office of the Director of NIH, may approve an application for a grant under subsection (a) of this section [grants to expand, remodel, etc. research facilities] only if the Board has under paragraph (2) recommended the application for approval.

- Reference: 42 U.S.C. § 283k(b) (2017)

*Legislative Veto:* None

*Adjudication:* None

**Office of the Assistant Secretary for Health**

*Date of Creation:* January 1, 1967

*Statute:* Not established in U.S. Code

**Office of the National Coordinator for Health Information Technology**

*Date of Creation:* April 27, 2004<sup>171</sup>

*Statute:* 42 U.S.C. §§ 300jj-11-52 (2017)

*Authorizing Language:* There is established within the Department of Health and Human Services an Office of the National Coordinator for Health Information Technology.

- Reference: 42 U.S.C. § 300jj-11(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The Office shall be headed by a National Coordinator who shall be appointed by the Secretary.

- Reference: 42 U.S.C. § 300jj-11(a) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* There is established a Health Information Technology Advisory Committee to recommend to the National Coordinator, consistent with the implementation of the strategic plan described in section 300jj-11(c)(3) of this title, policies, and for the purposes of adoption under section 300jj-14 of this title, standards, implementation specifications, and certification criteria, relating to the implementation of a health information technology infrastructure, nationally and locally, that advances the electronic access, exchange, and use of health information.

- Reference: 42 U.S.C. § 300jj-12 (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

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<sup>171</sup> Executive Order No. 13,335 (2004).

## **Substance Abuse and Mental Health Services Administration**

*Date of Creation:* July 10, 1992<sup>172</sup>

*Statute:* 42 U.S.C. §§ 290aa-290ll (2017)

*Authorizing Language:* The Substance Abuse and Mental Health Services Administration is an agency of the [Public Health] Service.

- Reference: 42 U.S.C. § 290aa(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* The Assistant Secretary shall select the Chief Medical Officer from among individuals who have a doctoral degree in medicine or osteopathic medicine; have experience in the provision of mental or substance use disorder programs; have an understanding of biological, psychosocial, and pharmaceutical treatments of mental or substance use disorders; and are licensed to practice medicine in one or more States.

- Reference: 42 U.S.C. § 290aa(g)(2) (2017)
- The Center [for Behavioral Health Statistics and Quality] shall be headed by a Director appointed. . .from among individuals with extensive experience and academic qualifications in research and analysis in behavioral health care or related fields.
  - Reference: 42 U.S.C. § 290aa-4(a) (2017)
- The Center [for Substance Abuse Treatment] shall be headed by a Director appointed. . .from among individuals with extensive experience or academic qualifications in the treatment of substance abuse disorders or in the evaluation of substance abuse disorder treatment systems.
  - Reference: 42 U.S.C. § 290bb(a) (2017)
- The Prevention Center shall be headed by a Director appointed. . .from individuals with extensive experience or academic qualifications in the prevention of drug or alcohol abuse.
  - Reference: 42 U.S.C. § 290bb-21(a) (2017)
- The Center [for Mental Health Services] shall be headed by a Director appointed. . .from among individuals with extensive experience or academic qualifications in the provision of mental health services or in the evaluation of mental health service systems.
  - Reference: 42 U.S.C. § 290bb-31(a) (2017)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The Administration shall be headed by an official to be known as the Assistant Secretary for Mental Health and Substance Abuse who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 42 U.S.C. § 290aa(c)(1)

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<sup>172</sup> ADAMHA Reorganization Act, Pub. L. No. 102-321, 106 Stat. 323 (1992).

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* Not later than September 30, 2018, and every 4 years thereafter, the Assistant Secretary shall submit the strategic plan developed under paragraph (1) to the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate.

- Reference: 42 U.S.C. § 290aa(l)(3) (2017)
- Not later than September 30, 2020, and every 2 years thereafter, the Assistant Secretary shall prepare and submit to the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate. . . a report containing at a minimum [a review and assessment of Administration activities].
  - Reference: 42 U.S.C. § 290aa(m) (2017)
- The Director of the Center for Behavioral Health Statistics and Quality, in coordination with the Director of the Center for Substance Abuse Treatment shall submit to the relevant committees of jurisdiction of the House and representatives and the Senate a report on the evaluation under subparagraph (A) [evaluation of the pilot program for State substance abuse agencies].
  - Reference: 42 U.S.C. § 290bb-1(r)(5)(B) (2017)
- Not later than 2 years after December 13, 2016, the Secretary [acting through the Assistant Secretary] shall submit to Congress a report on the activities carried out by the center established under subsection (a) [suicide prevention technical assistance center] during the year involved, including potential effects of such activities, and the States, organizations, and institutions that have worked with the center.
  - Reference: 42 U.S.C. § 290bb-34(d) (2017)
- Not later than 2 years after December 13, 2016, the Secretary [acting through the Assistant Secretary] shall submit to the appropriate committees of Congress a report concerning the results of evaluations conducted under paragraph (1) [concerning the effectiveness of activities carried out under youth suicide intervention and prevention grants] and an evaluation conducted by the Secretary to analyze the effectiveness and efficacy of the activities conducted with grants, collaborations, and consultations under this section.
  - Reference: 42 U.S.C. § 290bb-36(i)(2)
- For each fiscal year that grants are awarded under this section [for mental health and substance abuse disorder services on campus], the Secretary [acting through the Director of the Center for Mental Health Services] shall conduct a study on the results of the grants and submit to the Congress a report on such results that includes the following: an evaluation of the grant program outcomes, including a summary of activities carried out with the grant and the results achieved through those activities and recommendations on how to improve access to mental health and substance abuse disorder services at institutions of higher education, including efforts to reduce the incidence of suicide and substance use disorders.
  - Reference: 42 U.S.C. § 209bb-36b(f) (2017)

- The Assistant Secretary shall not later than the end of fiscal year 2021, submit a report to the appropriate congressional committees on the grant program under this section [assertive community treatment grant program], including an evaluation of any cost savings and public health outcomes such as mortality, suicide, substance abuse disorders, hospitalization, and use of services; rates of involvement with the criminal justice system of patients; rates of homelessness among patients.
  - Reference: 42 U.S.C. § 290bb-44(d)(1) (2017)

*Review Commissions:* None

*Advisory Commissions:* The Associate Administrator [for Women’s Services] shall establish a committee to be known as the Coordinating Committee for Women’s Services [which shall] identify the need for such services and make an establish each fiscal year of the funds needed to adequately support the services; identify the needs regarding the coordination of services; encourage the agencies of the administration to support such services; and assure that the unique needs of minority women, including Native American, Hispanic, African American and Asian women, are recognized and addressed within the activities of the Administration.

- Reference: 42 U.S.C. § 290aa(f)(2)(A)-(B) (2017)
- The Associate Administrator [for Women’s Services] shall. . .establish an advisory committee to be known as the Advisory Committee for Women’s Services. . .that shall advise the Associate Administrator on appropriate activities to be undertaken by the agencies of the Administration with respect to women’s substance abuse and mental health services, including services which require a multidisciplinary approach.
  - Reference: 42 U.S.C. § 290aa(f)(2)(C) (2017)
- The Assistant Secretary shall. . .establish such peer review groups and program advisory committees as are needed to carry out the requirements of this subchapter.
  - Reference: 42 U.S.C. § 290aa(i) (2017)
- The Secretary shall appoint an advisory council for the Substance Abuse and Mental Health Services Administration; the Center for Substance Abuse Treatment; the Center for Substance Abuse Prevention; and the Center for Mental Health Services. Each such advisory council shall advise, consult with, and make recommendations to the Secretary and the Assistant Secretary or Director of the Administration or Center for which the advisory council is established concerning matters relating to the activities carried out by and through the Administration or Center and the policies respecting such activities.
  - Reference: 42 U.S.C. § 290aa-1 (2017)
- The Secretary, acting through the Assistant Secretary and in collaboration with the Director of the Centers for Disease Control and Prevention, shall convene an interagency, public-private sector working group to plan, establish, and begin coordinating and evaluating a targeted public education campaign that is designed to focus on mental and behavioral health on the campuses of institutions of higher education.
  - Reference: 42 U.S.C. § 290ee-4(b) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **DEPARTMENT OF HOMELAND SECURITY**

*Date of Creation:* November 25, 2002<sup>173</sup>

*Statute:* 6 U.S.C. §§ 101-644 (2017)

*Authorizing Language:* There is established a Department of Homeland Security, as an executive department of the United States within the meaning of Title 5.

- Reference: 6 U.S.C. § 111(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* In hiring personnel for the [Domestic Nuclear Detection] Office, the Secretary shall have the hiring and management authorities provided in section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999.<sup>174</sup> The term of appointments for employees under subsection (c)(1) of such section may not exceed 5 years before granting any extension under subsection (c)(2) of such section.

- Reference: 6 U.S.C. § 593 (2017)
- The personnel management system established by the Administrator of the Federal Aviation Administration under section 40122 shall apply to employees of the Transportation Security Administration, or, subject to the requirements of such section, the Under Secretary [TSA Administrator] may make such modifications to the personnel management system with respect to such employees as the Under Secretary considers appropriate, such as adopting aspects of other personnel systems of the Department of Transportation.

- Reference: 49 U.S.C. § 114(n) (2017)<sup>175</sup>

*Limitation on Appointment:* In determining the eligibility of an officer or intelligence analyst to be assigned to a fusion center under this section, the Under Secretary for Intelligence and Analysis shall consider the familiarity of the officer or intelligence analyst with the State, locality, or region, as determined by such factors as whether the officer or intelligence analyst has been previously assigned in the geographic area or has previously worked with intelligence officials or law enforcement or other emergency response providers from that State, locality, or region.

- Reference: 6 U.S.C. § 124h(c)(4)(B) (2017)
- The Under Secretary for Intelligence and Analysis shall select law enforcement officers and intelligence analysts [to participate in the Homeland Security Information Sharing Fellows Program] representing a broad cross-section of state, local, and tribal agencies.
  - Reference: 6 U.S.C. § 124i(d) (2017)
- The Assistant Secretary of the Bureau of Border Security. . . shall have a minimum of 5 years professional experience in law enforcement and a minimum of 5 years of management experience.
  - Reference: 6 U.S.C. § 252(a)(2)(B) (2017)

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<sup>173</sup> Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (2002)

<sup>174</sup> Under the program, the Secretary may appoint not more than 20 scientific and engineering positions without regard to any provision of Title 5 regarding the appointment of employees in the civil service. In addition, the Secretary may prescribe rates of pay notwithstanding any provision of Title 5 (not in excess of the maximum rate of basic pay authorized for senior-level positions under 5 U.S.C. § 5376). Pub. L. No. 105-261 § 1101, 112 Stat. 2139 (1998).

<sup>175</sup> Incorporated into DHS through 6 U.S.C. § 203(2) (2017).

- The head of the Bureau of Citizenship and Immigration Services shall be the Director of the Bureau of Citizenship and Immigration Services who. . .shall have a minimum of 5 years management experience.
  - Reference: 6 U.S.C. § 271(a)(2)(B) (2017)
- Within the Department, there shall be a position of Citizenship and Immigration Services Ombudsman. . .The Ombudsman shall have a background in customer service as well as immigration law.
  - Reference: 6 U.S.C. § 272(a) (2017)
- The [FEMA] Administrator shall be appointed from among individuals who have a demonstrated ability in and knowledge of emergency management and homeland security and not less than 5 years of executive leadership and management experience in the public or private sector.
  - Reference: 6 U.S.C. § 313(c)(2) (2017)
- Each Regional Administrator shall be appointed from among individuals who have a demonstrated ability in and knowledge of emergency management and homeland security. In selecting a Regional Administrator for a Regional Office, the Administrator shall consider the familiarity of an individual with the geographical and demographic characteristics of the population served by such Regional Office.
  - Reference: 6 U.S.C. § 317(b)(2) (2017)
- The individual appointed as Chief Medical Officer shall possess a demonstrated ability in and knowledge of medicine and public health.
  - Reference: 6 U.S.C. § 321e(b) (2017)<sup>176</sup>
- The Under Secretary for Management shall be appointed. . .from among persons who have extensive executive level leadership and management experience in the public or private sector; strong leadership skills; a demonstrated ability to manage large and complex organizations; and a proven record in achieving positive operational results.
  - Reference: 6 U.S.C. § 341(d)(1) (2017)<sup>177</sup>
- The Commandant [of the Coast Guard] shall be appointed from the offices on the active duty promotion list serving above the grade of captain who have completed at least ten years of active service as a commissioned officer in the Coast Guard.
  - Reference: 14 U.S.C. § 44 (2017)<sup>178</sup>
- The Vice Commandant [of the Coast Guard] shall be selected from offices on the active duty promotion list serving above the grade of captain.
  - Reference: 14 U.S.C. § 47 (2017)<sup>179</sup>
- Except as provided in subparagraph (B), one of the vice admirals [of the Coast Guard] designated under paragraph (1)(A) must have at least 10 years experience in vessel inspection, marine casualty investigations, mariner licensing, or an equivalent technical expertise in the design and construction of commercial vessels, with at least 4 years of leadership experience at a staff or unit carrying out marine safety functions.
  - Reference: 14 U.S.C. § 50(a)(3)(A) (2017)<sup>180</sup>

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<sup>176</sup> Incorporated into DHS through 6 U.S.C. § 203(2) (2017).

<sup>177</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>178</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>179</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>180</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

- The President. . .shall appoint the Director of the Coast Guard Reserve, from officers of the Coast Guard who have had at least 10 years of commissioned service; are in a grade above captain; and have been recommended by the Secretary of Homeland Security.
  - Reference: 14 U.S.C. § 53(b) (2017)<sup>181</sup>
- The Chief Acquisition Officer and any flag officer serving in the Acquisition Directorate [of the Coast Guard] shall be an acquisition professional with a Level III acquisition certification and must have at least 10 years experience in an acquisition position, of which at least 4 years were spent as the program executive officer; the program manager of a Level 1 or Level 2 acquisition project or program; the deputy program manager of a Level 1 or Level 2 acquisition; the project manager of a Level 1 or Level 2 acquisition; or any other acquisition position of significant responsibility in which the primary duties are supervisory or management duties.
  - Reference: 14 U.S.C. § 56(b) (2017)<sup>182</sup>
- An officer, member, or civilian employee of the Coast Guard assigned as a marine inspector shall have the training, experience, and qualifications equivalent to that required for a similar position at a classification society recognized by the Secretary under section 3316 of title 46 for the type of vessel, system, or equipment that is inspected; marine casualty investigator shall have the training, experience, and qualifications in investigation, marine casualty reconstruction, evidence collection and preservation, human factors, and documentation using best investigation practices by Federal and non-Federal entities; marine safety engineer shall have knowledge, skill, and practical experience in the construction and operation of commercial vessels; judging the character, strength, ability, and safety qualities of such vessels and their equipment; or the qualifications and training of vessel personnel; waterways operations manager shall have knowledge, skill, and practical experience with respect to marine transportation system management; or port and facility safety and security specialist shall have knowledge, skill, and practical experience with respect to the safety, security, and environmental protection responsibilities associated with maritime ports and facilities.
  - Reference: 14 U.S.C. § 57(b) (2017)<sup>183</sup>
- There shall be in each Coast Guard sector a Chief of Prevention who shall be at least a Lieutenant Commander or civilian employee within the grade GS-13 of the General Schedule, and who shall be a marine inspector, qualified to inspect vessels, vessel systems, and equipment commonly found in the sector; and qualified marine casualty investigator, marine safety engineer, waterways operations manager, or port and facility safety and security specialist.
  - Reference: 14 U.S.C. § 57(e) (2017)<sup>184</sup>
- Except for the Commandant of the Coast Guard, any individual adjudicating an appeal or waiver of a decision regarding marine safety, including inspection or manning and threats to the environment, shall be a qualified specialist with the training, experience, and qualifications in marine safety to effectively judge the facts and circumstances involved in the appeal and make a judgment regarding the merits of the appeal or have a senior

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<sup>181</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>182</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>183</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>184</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

staff member who meets the requirements of paragraph (1); actively advises the individual adjudicating the appeal; and concurs in writing on the decision on appeal.

- Reference: 14 U.S.C. § 101 (2017)<sup>185</sup>
- The Under Secretary [TSA Administrator] must be a citizen of the United States and have experience in a field directly related to transportation or security.
  - Reference: 49 U.S.C. § 114(b)(2) (2017)<sup>186</sup>
- The Under Secretary [TSA Administrator] may not own stock in or bonds of a transportation or security enterprise or an enterprise that makes equipment that could be used for security purposes.
  - Reference: 49 U.S.C. § 114(c) (2017)

*Party Balancing:* N/A

*Fixed Terms:* The President may appoint, by and with the advice and consent of the Senate, one Commandant for a period of four years, who may be reappointed for further periods of four years, who shall act as the Chief of the Coast Guard.

- Reference: 14 U.S.C. § 44 (2017)<sup>187</sup>
- The Director of the Coast Guard Reserve holds office for a term determined by the President, normally two years, but not more than four years. An officer may be removed from the position of Director for cause at any time.
  - Reference: 14 U.S.C. § 53(b) (2017)<sup>188</sup>
- The term of office of an individual appointed as the Under Secretary [TSA Administrator] shall be 5 years.
  - Reference: 49 U.S.C. § 114(b)(3) (2017)<sup>189</sup>

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* Notwithstanding chapter 33 of Title 5, the Under Secretary for Management shall serve as the Acting Secretary if by reason of absence, disability, or vacancy in office, neither the Secretary nor Deputy Secretary is available to exercise the duties of the Office of the Secretary.

- Reference: 6 U.S.C. § 113(g)(1) (2017)

*Who is Head of Agency:* There is a Secretary of Homeland Security, appointed by the President, by and with the advice and consent of the Senate. The Secretary is the head of the Department and shall have direction, authority, and control over it.

- Reference: 6 U.S.C. § 112(a) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* There is established the Acceleration Fund for Research and Development of Homeland Security Technologies, which is administered by the Director of HSARPA [to be used to administer grants].

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<sup>185</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>186</sup> Incorporated into DHS through 6 U.S.C. § 203(2) (2017).

<sup>187</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>188</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>189</sup> Incorporated into DHS through 6 U.S.C. § 203(2) (2017).

- Reference: 6 U.S.C. § 187
- For fiscal year 2012 and thereafter, the U.S. Customs and Border Protection’s Advanced Training Center is authorized to charge fees for any service and/or thing of value it provides to Federal Government or non-government entities or individuals, so long as the fees charged do not exceed the full costs associated with the service or thing of value provided: Provided, that notwithstanding 31 U.S.C. 3302(b), fees collected by the Advanced Training Center are to be deposited into a separate account entitled “Advanced Training Center Revolving Fund” and be available, without further appropriations, for necessary expenses of the Advanced Training Center program, and are to remain available until expended.
  - Reference: 6 U.S.C. § 211(b)(1) (2017)
- Out of funds collected by fees authorized under sections 126 and 136a of Title 21 [inspection services], the Secretary of Agriculture shall transfer, from time to time in accordance with the agreement [between USDA and DHS] under subsection (e) of this section, the Secretary funds for activities carried out by the Secretary for which such fees were collected. The proportion of fees collected pursuant to such sections that are transferred to the Secretary under this subsection may not exceed the proportion of the costs incurred by the Secretary to all costs incurred to carry out activities funded by such fees.
  - Reference: 6 U.S.C. § 231(f) (2017)
- Fees imposed for a particular service, application, or benefit shall be deposited into the account established under subsection (a) of this section [separate accounts for the Bureau of Citizenship and Immigration Services and the Bureau of Border Security] that is for the bureau with jurisdiction over the function to which the fee relates.
  - Reference: 6 U.S.C. § 296(c) (2017)
- The Commissioner of U.S. Customs and Border Protection, upon the request of any entity, may enter into a fee agreement with such entity under which U.S. Customs and Border Protection shall provide services described in section (b) [pertaining to customs, agricultural processing, border security, or immigration inspection related matters] at a United States port of entry or any other facility at which U.S. Customs and Border Protection provides or will provide such services; such entity shall remit to U.S. Customs and Border Protection a fee imposed under subsection (h) in an amount equal to the full costs that are incurred or will be incurred in providing such services. . .The amount of the fee to be charged under an agreement authorized under subsection (a) shall be paid by each entity requesting U.S. Customs and Border Protection services, and shall be for the full cost of providing such services. . .Funds collected pursuant to any agreement entered into pursuant to subsection (a) shall be deposited as offsetting collections; shall remain available until expended without fiscal year limitation; and shall be credited to the applicable appropriation, account, or fund for the amount paid out of such appropriation, account, or fund for any expenses incurred or to be incurred by U.S. Customs and Border Protection in providing U.S. Customs and Border Protection services under any such agreement and any other costs incurred or to be incurred by U.S. Customs and Border Protection relating to such services.
  - Reference: 6 U.S.C. § 301 (2017)
- The Commissioner of U.S. Customs and Border Protection, in consultation with the Administrator of General Services, may enter into an agreement with any entity to accept

a donation of personal property, money, or nonpersonal services for the uses described in paragraph (3) only with respect to the following locations at which U.S. Customs and Border Protection performs or will be performing inspection services: a new or existing sea or air port of entry; an existing Federal Government-owned land port of entry; a new Federal Government land port of entry if the fair market value of the donation is \$50,000,000 or less and the fair market value, including any personal and real property donations in total, of such port of entry when completed, is \$50,000,000 or less. . . Donations accepted pursuant to this subsection may be used for activities of the Office of Field Operations set forth in subparagraphs (A) through (F) of section 211(g)(3) of this title, which are related to a new or existing sea or air port of entry or a new or existing Federal Government-owned land port of entry described in paragraph (1), including expenses related to furniture, fixtures, equipment, or technology, including the installation or deployment of such items and the operation and maintenance of such furniture, fixtures, equipment, or technology.

- Reference: 6 U.S.C. § 301a(a) (2017)
- The Commissioner of U.S. Customs and Border Protection. . . may enter into an agreement with any entity to accept a donation of real property or money for uses described in paragraph (2) only with respect to the following locations at which U.S. Customs and Border Protection performs or will be performing inspection services: a new or existing sea or air port of entry; an existing Federal Government-owned land port of entry; a new Federal Government land port of entry if the fair market value of the donation is \$50,000,000 or less and the fair market value, including any personal and real property donations in total, of such port of entry when completed, is \$50,000,000 or less. Donations accepted pursuant to this subsection may be used for activities of the Office of Field Operations as set forth in section 211(g) of this title, which are related to the construction, alteration, operation, or maintenance of a new or existing sea or air port of entry or a new or existing Federal Government-owned land port of entry described in paragraph (1), including expenses related to land acquisition, design, construction, repair, or alteration and operation and maintenance of such port of entry facility.
  - Reference: 6 U.S.C. § 301a(b) (2017)
- During fiscal year 2014 and thereafter, with respect to any undercover investigative operation of the United States Secret Service that is necessary for the detection and prosecution of crimes against the United States. . . procedures from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of Title 31.
  - Reference: 6 U.S.C. § 384(a)(4) (2017)
- The Secretary may accept and use gifts of property, both real and personal, and may accept gifts of services, including from guest lecturers, for otherwise authorized activities of the Center for Domestic Preparedness that are related to efforts to prevent, prepare for, protect against, or respond to a natural disaster, act of terrorism, or other man-made disaster, including the use of a weapon of mass destruction.
  - Reference: 6 U.S.C. § 321n(a) (2017)
- The Director [of FLETC] is authorized to charge and retain fees that would pay for its actual costs of the training for the following: state, local, tribal, and territorial law enforcement personnel; foreign law enforcement officials, including provision of such training at the International Law Enforcement Academies wherever established; private

sector security officers, participants in the Federal Flight Deck Officer program under section 44921 of Title 49, and other appropriate private sector individuals.

- Reference: 6 U.S.C. § 464(d)(8) (2017)
- In order to further the goals and objectives of FLETC, the Director is authorized to . . . accept and use gifts of property, both real and personal, and to accept gifts of services, for purposes that promote the functions of the Director pursuant to subsection (c) and the training responsibilities of the Director under subsection (d); accept reimbursement from other Federal agencies for the construction or renovation of training and support facilities and the use of equipment and technology on government owned-property; obligate funds in anticipation of reimbursements from agencies receiving training at FLETC, except that total obligations at the end of a fiscal year may not exceed total budgetary resources available at end of such fiscal year.
  - Reference: 6 U.S.C. § 464(f) (2017)
- For fiscal year 2004 and thereafter, the Secretary of Homeland Security shall charge reasonable fees for providing credential and background investigations in the field of transportation: Provided that the establishment and collection of fees shall be subject to the following requirements: such fees, in the aggregate, shall not exceed the costs incurred by the Department of Homeland Security associated with providing the credential or performing the background record checks; the Secretary shall charge fees in amounts that are reasonably related to the costs of providing services in connection with the activity or item for which the fee is charged. . . and any fee collected shall be available for expenditures only to pay the costs incurred in providing services in connection with the activity or item for which the fee is charged and shall remain available until expended.
  - Reference: 6 U.S.C. § 469(a) (2017)
- For fiscal year 2010 and thereafter, the Secretary of Homeland Security may collect fees from any non-Federal participant in a conference, seminar, exhibition, symposium, or similar meeting conducted by the Department of Homeland Security in advance of the conference, either directly or by contract, and those fees shall be credited to the appropriation or account from which the costs of the conference, seminar, exhibition, symposium, or similar meeting are paid and shall be available to pay the costs of the Department of Homeland Security with respect to the conference or to reimburse the Department for costs incurred with respect to the conference.
  - Reference: 6 U.S.C. § 469a (2017)
- The Secretary is authorized to accept monies and in-kind donations from the virtual Global Taskforce, national laboratories, Federal agencies, not-for-profit organizations, and educational institutions to create and expand public awareness campaigns in support of the functions of the CEIU.
  - Reference: 6 U.S.C. § 473(b)(6)(A) (2017)
- The Secretary is authorized to accept monies and in-kind donations from the virtual Global Taskforce, national laboratories, Federal agencies, not-for-profit organizations, and educational institutions to create and expand public awareness campaigns in support of the functions of the CFU.
  - Reference: 6 U.S.C. § 473(c)(4)(A) (2017)
- The [Domestic Nuclear Detection] Office may direct that private section entities utilizing Government facilities in accordance with this section pay an appropriate fee to the

agency that owns or operates those facilities to defray additional costs to the Government resulting from such use. . . Fees for services made available under this section shall not exceed the amount necessary to recoup the direct and indirect costs involved. . . Fees received for services made available under this section may be credited to the appropriation from which funds were expended to provide such services.

- Reference: 6 U.S.C. § 594 (2017)
- Except as provided in paragraph (2) [if the donation would compromise the integrity of the Coast Guard] the Commandant [of the Coast Guard] may accept, on behalf of a center, donations used to defray the costs of the center or to enhance the operation of the center.
  - Reference: 14 U.S.C. § 58(d) (2017)<sup>190</sup>
- For the purpose of executing the duties and functions of the Coast Guard, the Commandant may: . . . accept as gift or otherwise acquire patrol boats and other small craft, equip, operate, maintain, supply, and repair such patrol boats, other small craft, aircraft, and vehicles, and subject to applicable regulations under subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41 dispose of them.
  - Reference: 14 U.S.C. § 93(a)(8) (2017)<sup>191</sup>
- For the purpose of executing the duties and functions of the Coast Guard, the Commandant may: . . . acquire, accept as gift, maintain, repair, and discontinue aids to navigation, appliances, equipment, and supplies.
  - Reference: 14 U.S.C. § 93(a)(9) (2017)<sup>192</sup>
- For the purpose of executing the duties and functions of the Coast Guard, the Commandant may: . . . rent or lease, under such terms and conditions as are deemed advisable, for a period not exceeding five years, such real property under the control of the Coast Guard as may not be required for immediate use by the Coast Guard, the monies received from any such rental or lease, less amount of expenses incurred (exclusive of governmental personal services), to be deposited in the fund established under section 687 [Coast Guard Housing Fund].
  - Reference: 14 U.S.C. § 93(a)(13) (2017)<sup>193</sup>
- The Commandant [of the Coast Guard] may lease submerged lands and tidelands under paragraph (1) only if the lease is for cash exclusively; the lease amount is equal to the fair market value of the use of the leased submerged lands or tidelands for the period during which such lands are leased, as determined by the Commandant; the lease does not provide authority to or commit the Coast Guard to use or support any improvements to such submerged lands and tidelands, or obtain goods and services from the lessee; and the proceeds from the lease are deposited in the Coast Guard Housing Fund established under section 687.
  - Reference: 14 U.S.C. § 93(f) (2017)<sup>194</sup>
- The Secretary shall fund the operation and maintenance of the National Coast Guard Museum with nonappropriated and non-Federal funds to the maximum extent practicable.

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<sup>190</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>191</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>192</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>193</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>194</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

- Reference: 14 U.S.C. § 98(b)(2) (2017)<sup>195</sup>
- The Commandant [of the Coast Guard] is authorized to collect and expend fees, established pursuant to this subparagraph [relating to child development services available to members and civilian employees of the Coast Guard], and such fees shall, without further appropriation, remain available until expended for the purpose of providing services, including the compensation of employees and the purchase of consumable and disposable items, at Coast Guard child development centers.
  - Reference: 14 U.S.C. § 552(c)(2)(C) (2017)<sup>196</sup>
- The Commandant [of the Coast Guard] may, under regulations prescribed by the Secretary, sell apparatus or equipment manufactured by or in use in the Coast Guard, which is not readily procurable in the open market. The money received from such sale shall be deposited in the Treasury to the credit of the current appropriation from which purchase of similar apparatus or equipment is authorized. If the balance available to the Coast Guard installation under this section at the end of a fiscal year is in excess of \$200,000, the amount of that excess shall be deposited in the general fund of the Treasury as offsetting receipts of the Department in which the Coast Guard is operating and ascribed to Coast Guard activities.
  - Reference: 14 U.S.C. § 641(b); (e) (2017)<sup>197</sup>
- The Commandant [of the Coast Guard] may provide for the sale of recyclable materials that the Coast Guard holds. . .proceeds from the sale of recyclable materials at a Coast Guard installation shall be credited to funds available for operations and maintenance at that installation in amounts sufficient to cover operations, maintenance, recycling equipment, and overhead costs for processing recyclable materials at the installation. If, after funds are credited, a balance remains available to a Coast Guard installation and the installation has a qualified recycling program, not more than 50 percent of that balance may be used at the installation for projects for pollution abatement, energy conservation, and occupational safety and health activities. The cost of the project may not be greater than 50 percent of the amount permissible for a minor construction project. The remaining balance available to a Coast Guard installation may be transferred to the Coast Guard Morale, Welfare, and Recreation Program. If the balance available to the Coast Guard installation under this section at the end of a fiscal year is in excess of \$200,000, the amount of that excess shall be deposited in the general fund of the Treasury as offsetting receipts of the Department in which the Coast Guard is operating and ascribed to Coast Guard activities.
  - Reference: 14 U.S.C. § 641(c)-(e) (2017)<sup>198</sup>
- A Coast Guard Supply Fund is authorized. The Secretary may prescribe regulations for designating the classification of materials to be stocked. In these regulations, whenever the fund is extended to include items not previously stocked, or spare parts obtained as part of a procurement under a different account of major items such as vessels or aircraft, whether or not such parts were previously stocked, the Secretary may authorize an increase in the existing capital of the fund by the value of such usable materials transferred thereto from Coast Guard inventories carried in other accounts. Except for

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<sup>195</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>196</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>197</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>198</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

the materials so transferred, the fund shall be charged with the cost of materials purchased or otherwise acquired. The fund shall be credited with the value of materials consumed, issued for use, sold, or otherwise disposed of, such values to be determined on a basis that will approximately cover the cost thereof. Obligations may, without regard to fiscal year limitation be incurred against anticipated reimbursement to the Coast Guard Supply Fund in such amount and for such period, as the Secretary, with approval of the Director of the Office of Management and Budget, may determine to be necessary to maintain stock levels consistently with planned operations for the next year.

- Reference: 14 U.S.C. § 650 (2017)<sup>199</sup>
- The Secretary under such regulations as he may prescribe, may sell to public and commercial vessels and other watercraft [of the Coast Guard], such fuel, supplies and furnish such services as may be required to meet the necessities of the vessel or watercraft if such vessel or watercraft is unable to procure the fuel, supplies, or services from other sources at its present location and to proceed to the nearest port where they may be obtained without endangering the safety of the ship, the health and comfort of its personnel, or the safety condition of the property carried aboard. Sales under this section shall be at such process as the Secretary considers reasonable. Payment will be made on a cash basis or on other basis as will reasonable assure prompt payment. Amounts received from such a sale shall, unless otherwise directed by another provision of law, be credited to the current appropriation concerned and are available for the same purposes as that appropriation.
  - Reference: 14 U.S.C. § 654 (2017)<sup>200</sup>
- The Secretary shall keep account of costs incurred as a result of providing assistance to film producers, not including costs which would otherwise be incurred in Coast Guard operations or training, or shall estimate such costs in advance, and such costs shall be paid to the Secretary by the film producers who request such assistance, on terms determined by the Secretary. The Secretary may waive costs not exceeding \$200 for one production, and may waive other costs related to noncommercial productions which the Secretary determines to be in the public interest. The Secretary shall reimburse the amounts collected under this section to the Coast Guard appropriation account under which the costs were incurred.
  - Reference: 14 U.S.C. § 659(b) (2017)<sup>201</sup>
- Amounts collected by the Secretary for a service or thing of value provided by the Coast Guard shall be deposited in the general fund of the Treasury as proprietary receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities.
  - Reference: 14 U.S.C. § 664(b) (2017)<sup>202</sup>
- On any date after the notification [to Congress] is made under subsection (a), the Administrator of General Services, acting on behalf of the Secretary, may, notwithstanding any other provision of law, sell any real and personal property under the administrative control of the Coast Guard and used for the LORAN-C system, subject to such terms and conditions that the Secretary believes to be necessary to protect government interest and program requirements of the Coast Guard. The proceeds of such

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<sup>199</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>200</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>201</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>202</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

sales, less the costs of sale incurred by the General Services Administration, shall be deposited as offsetting collections into the Coast Guard “Environmental Compliance and Restoration” account and, without further appropriation, shall be available until expended for environmental compliance and restoration purposes associated with the LORAN-C system; the costs of securing and maintaining equipment that may be used as a backup to the Global Positioning System or to meet any other Federal navigation requirement; the demolition of improvements on such real property; and the costs associated with the sale of such real and personal property, including due diligence requirements, necessary environmental remediation, and reimbursement of expenses incurred by the General Services Administration. After the completion of activities described in subparagraph (A), the unexpended balances of such proceeds shall be available for any other environmental compliance and restoration activities of the Coast Guard.

- Reference: 14 U.S.C. § 681 (2017)<sup>203</sup>
- Notwithstanding any other provision of law, the Secretary may convey, at fair market value, real property, owned or under the administrative control of the Coast Guard, for the purpose of expending the proceeds from such conveyance to acquire and construct military family housing and military unaccompanied housing. The conveyance of real property under this section shall be by sale, for cash. The Secretary shall deposit the proceeds from the sale in the Coast Guard Housing Fund established under section 687 of this title, for the purpose of expending such proceeds to acquire and construct military family housing and military unaccompanied housing.
  - Reference: 14 U.S.C. § 685 (2017)<sup>204</sup>
- There is hereby established on the books of the Treasury an account to be known as the Coast Guard Housing Fund. There shall be credited to the Fund the following: Amounts authorized for and appropriated to that Fund; Subject to subsection (e), any amounts that the Secretary transfers, in such amounts as provided in appropriation Acts, to that Fund from amounts authorized and appropriated to the Department of Homeland Security or Coast Guard for the acquisition or construction of military family housing or military unaccompanied housing; Proceeds from the conveyance of property under section 685 of this title for the purpose of carrying out activities under this chapter with respect to military family housing and military unaccompanied housing; monies received under section 93(a)(13); Amounts received under section 672a(b). In such amounts as provided in appropriations Acts, and except as provided in subsection (d), the Secretary may use amounts in the Coast Guard Housing Fund to carry out activities under this chapter with respect to military family housing and military unaccompanied housing. . . Amounts made available under this subsection shall remain available until expended.
  - Reference: 14 U.S.C. § 687 (2017)<sup>205</sup>
- There is established for the Coast Guard an account known as the Coast Guard Environmental Compliance and Restoration Account. All sums appropriated to carry out the Coast Guard’s environmental compliance and restoration functions under this chapter or another law shall be credited or transferred to the account and remain available until expended.

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<sup>203</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>204</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>205</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

- Reference: 14 U.S.C. § 692 (2017)<sup>206</sup>
- Reporting Requirements:*<sup>207</sup> The Secretary shall notify the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives of any vacancies that require notification under sections 3345 through 3349 of Title 5.
- Reference: 6 U.S.C. § 113(g)(3) (2017)
  - Not later than January 31 of each succeeding year, starting on January 31, 2007, the Secretary shall provide annually a similar report to the Committees of Appropriations of the Senate and the House of Representatives on the titles of all DHA documents that are designated as SSI in their entirety during the period of January 1 through December 31 for the preceding year.
    - Reference: 6 U.S.C. § 114 (2017)
  - The Secretary shall designate an appropriate senior official in the office of the Secretary who shall . . . monitor and report to Congress on the Department's mandate to ensure that the trade and customs revenue functions of the Department are not diminished, including how spending, operations, and personnel related to these functions have kept pace with the level of trade entering the United States.
    - Reference: 6 U.S.C. § 115(a)(1)(B) (2017)
  - Subject to subparagraph (b), the Secretary shall notify the appropriate congressional committees not later than 60 days before proposing, and not later than 60 days before finalizing, any Department policies, initiatives, or actions that will have a major impact on trade and customs revenue functions. Such notifications shall include a description of the proposed policies, initiatives, or actions and any comments or recommendations provided by the Commercial Operations Advisory Committee and other relevant groups regarding the proposed policies, initiatives, or actions. If the Secretary determines that it is important to the national security interest of the United States to finalize any Department policies, initiatives, or actions prior to the consultation described in subparagraph (A), the Secretary shall notify and provide any recommendations of the Commercial Operations Advisory Committee received to the appropriate congressional committees not later than 45 days after the date on which the policies, initiatives, or actions are finalized, and to the extent appropriate, modify the policies, initiatives, or actions based upon the consultations with the appropriate congressional committees.
    - Reference: 6 U.S.C. § 115(c)(2) (2017)
  - Not less than 45 days prior to any change in the organization of any of the customs revenue functions of the Department, the Secretary shall notify the Committee on Appropriations, the Committee on Finance, and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Appropriations, the Committee on Homeland Security, and the Committee on Ways and Means of the House of Representatives of the specific assets, functions, or personnel to be transferred as part of such reorganization, and the reason for such transfer.
    - Reference: 6 U.S.C. § 115(d)(1) (2017)

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<sup>206</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>207</sup> Notwithstanding any other statutory provision, any report, notification, or consultation addressing directly or indirectly the use of appropriated funds and stipulated to be submitted to, or held with, Congress or any of its committees shall also be submitted to, or held with, the Committees on Appropriations of the House and Senate under the same conditions and with the same restrictions. 6 U.S.C. § 103 (2017)

- Not later than 1 year after any reorganization [of the customs revenue functions of the Department] referred to in paragraph (1) takes place, the Secretary, in consultation with the Commercial Operations Advisory Committee, shall submit a report to the Committee on Finance and the Senate and the Committee on Ways and Means of the House of Representatives. Such report shall include an assessment of the impact of, and any suggested modifications to, such reorganization.
  - Reference: 6 U.S.C. § 115(d)(3) (2017)
- The responsibilities of the Secretary relating to intelligence and analysis and infrastructure protection shall be as follows: . . . To prepare and submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security in the House of Representatives, and to other appropriate congressional committees having jurisdiction over the critical infrastructure or key resources, for each sector identified in the National Infrastructure Protection Plan, a report on the comprehensive assessments carried out by the Secretary of the critical infrastructure and key resources of the United States, evaluating threat, vulnerability, and consequence, as required under this subsection. Each such report shall contain, if applicable, actions or countermeasures recommended or taken by the Secretary or the head of another Federal agencies to address issues identified in the assessments; shall be required for fiscal year 2007 and each subsequent fiscal year and shall be submitted not later than 35 days after the last day of the fiscal year covered by the report; and may be classified.
  - Reference: 6 U.S.C. § 121(d)(25) (2017)
- The responsibilities of the Secretary relating to intelligence and analysis and infrastructure protection shall be as follows: . . . Not later than six months after December 23, 2016, to conduct an intelligence-based review and comparison of the risks and consequences of EMP and GMD facing critical infrastructure, and submit to the Committee on Homeland Security and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Select Committee on Intelligence of the Senate a recommended strategy to protect and prepare the critical infrastructure of the homeland against threats of EMP and GMD and not less frequently than every two years thereafter for the next six years, updates of the recommended strategy.
  - Reference: 6 U.S.C. § 121(d)(26)(A) (2017)
- Not later than one year after August 3, 2007, and annually thereafter, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report that includes a description of the consumer feedback [on intelligence or other information products] obtained under paragraph (1) and, if applicable, how the Department has adjusted its production of intelligence products in response to that consumer feedback.
  - Reference: 6 U.S.C. § 124h(g)(2) (2017)
- Not later than 180 days after August 3, 2007, and annually thereafter, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the database established under subsection (a)(1) of this section and the list established under subsection (a)(2) of this section.
  - Reference: 6 U.S.C. § 124l(d)(1) (2017)

- For each fiscal year and along with the budget materials submitted in support of the budget of the Department of Homeland Security pursuant to section 1105(a) of Title 31, the Under Secretary for Intelligence and Analysis of the Department shall submit to the congressional intelligence committees a report for such fiscal year on each intelligence activity of each intelligence component of the Department.
  - Reference: 6 U.S.C. § 125(a) (2017)
- The Secretary shall appoint a senior official in the Department, who shall report directly to the Secretary, to assume primary responsibility for privacy policy, including . . . preparing a report to Congress on an annual basis on activities of the Department that affect privacy, including complaints of privacy violations, implementation of the Privacy Act of 1974, internal controls, and other matters.
  - Reference: 6 U.S.C. § 142(a)(6) (2017)
- If the Secretary removes the senior official appointed under subsection (a) of this section [privacy official] or transfers that senior official to another position or location within the Department, the Secretary shall promptly submit a written notification of the removal or transfer to Houses of Congress and include in any such notification the reasons for the removal or transfer.
  - Reference: 6 U.S.C. § 142(d) (2017)
- The senior official appointed under subsection (a) of this section shall . . . inform the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives not later than 30 days after the Secretary disapproves the senior official's request for a subpoena under subsection (b)(1)(C) of this section or the Secretary substantively modifies the requested subpoena or 45 days after the senior official's request for a subpoena under subsection (b)(1)(C) of this section, if that subpoena has not either been approved or disapproved by the Secretary.
  - Reference: 6 U.S.C. § 142(e)(2) (2017)
- The Secretary shall submit to the appropriate congressional committees annual updates on the cybersecurity workforce assessment required under subsection (a) and the progress of the Secretary in carrying out the comprehensive workforce strategy required to be developed under subsection (b).
  - Reference: 6 U.S.C. § 142(c) (2017)
- Not later than 1 year after December 18, 2014, and every year thereafter for 4 years, the Secretary shall submit to the appropriate committees of Congress a detailed report that [describes and discusses the Department's policies towards cybersecurity recruitment and retention].
  - Reference: 6 U.S.C. § 147(c) (2017)
- The Under Secretary [responsible for cybersecurity] appointed under section 113(a)(1)(H) of this title shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives an annual report on the status and progress of the development of the capabilities described in paragraph (1) [making use of existing information technology industry standards and best practices]. Such reports shall be required until such capabilities are fully implemented.
  - Reference: 6 U.S.C. § 148(g)(2) (2017)

- Not later than 180 days after December 18, 2015, and periodically thereafter, the Secretary of Homeland Security shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the range of efforts underway to bolster cybersecurity collaboration with relevant international partners in accordance with subsection (c)(8).
  - Reference: 6 U.S.C. § 148(j) (2017)
- The Secretary shall report annually, from the date of enactment, to Congress concerning the implementation of this section [conduct of research, development, demonstration, testing, and evaluation]. That report shall indicate which center or centers have been designated and how the designation or designations enhance homeland security, as well as report any decisions to revoke or modify such designations.
  - Reference: 6 U.S.C. § 188(b)(2)(D) (2017)
- If the Secretary chooses to establish a headquarters laboratory pursuant to paragraph (2), then the Secretary shall do the following. . . Report to the appropriate congressional committees on which laboratory was selected, how the selected laboratory meets the published criteria, and what duties the headquarters laboratory shall perform.
  - Reference: 6 U.S.C. § 188(c)(3) (2017)
- The [Homeland Security] Institute shall transmit to the Secretary and Congress an annual report on the activities of the Institute under this section.
  - Reference: 6 U.S.C. § 192(f) (2017)
- The Secretary shall transmit a written notification to the Congress not later than 3 days before the issuance of a letter of intent under this section [to obligate future budget authority to a state, region, local government, or Indian tribe for the purposes of enhancing interoperable communications capabilities for emergency response providers].
  - Reference: 6 U.S.C. § 194(e)(3)(D) (2017)
- Not later than one year after August 3, 2007, and every 5 years thereafter, the Under Secretary, acting through the Director, shall submit to Congress a report [on international cooperative activities].
  - Reference: 6 U.S.C. § 195c(e) (2017)
- During each year in which the [social media working] Group meets, the Group shall submit to the appropriate congressional committees a report that includes [a review and analysis of current and emerging social media technologies being used to support preparedness and response activities; a review of best practices; recommendations].
  - Reference: 6 U.S.C. § 195d(f) (2017)
- The [social media working] Group shall terminate on the date that is 5 years after November 5, 2015, unless the chairperson renews the Group of a successive 5-year period, prior to the date on which the Group would otherwise terminate, by submitting to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a certification that the continued existence of the Group is necessary to fulfill the purpose described in subsection (b). The chairperson may continue to renew the Group for successive 5-year period by submitting a certification.
  - Reference: 6 U.S.C. § 195d(g) (2017)

- Not later than January 1, 2017, and annually thereafter, the Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a classified and unclassified report, as applicable, that lists each ongoing classified and unclassified project at the Department, including all appropriate details of each such project.
  - Reference: 6 U.S.C. § 195e(b) (2017)
- Not later than 30 days after February 24, 2016, and annually thereafter, the Executive Assistant Commissioner [of Customs and Border Protection] shall submit to the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate a report on the staffing model for the Office of Field Operations, including information on how many supervisors, front-line U.S. Customs and Border Protection officers, and support personnel are assigned to each Field Office and port of entry.
  - Reference: 6 U.S.C. § 211(g)(5)(A) (2017)
- The Inspector General of the Department of Homeland Security shall develop and annually administer, during each of the three calendar years beginning in the calendar year that begins after February 24, 2016, an auditing mechanism to review whether searches of electronic devices at or between United States ports of entry are being conducted in conformity with the standard operating procedures required under subparagraph (A) of paragraph (1) [involving search of information on an electronic device by U.S. Customs and Border Protection personnel]. Such audits shall be submitted to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate.
  - Reference: 6 U.S.C. § 211(k)(5) (2017)
- The standard use of force procedures established pursuant to subparagraph (B) of paragraph (1) [standard use of force by officers and agents of U.S. Customs and Border Protection] shall require in the case of an incident of the use of deadly force by U.S. Customs and Border Protection personnel, the Commissioner [of Customs and Border Protection] to notify the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate and the Commissioner to provide such committees a copy of the evaluation pursuant to subparagraph (D) [involving use of deadly force by an officer or agent of U.S. Customs and Border Protection] of such paragraph not later than 30 days after the completion of such evaluation.
  - Reference: 6 U.S.C. § 211(k)(6) (2017)
- The Commissioner [of Customs and Border Protection] shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate an annual report, for each of the three calendar years beginning in the calendar year that begins after February 24, 2016, that reviews whether the use of unmanned aerial systems is being conducted with the standard operating procedures required under subparagraph 9E) of paragraph (1) [command, control, communication, surveillance, and reconnaissance assistance through the use of unmanned aerial systems].
  - Reference: 6 U.S.C. § 211(k)(7) (2017)

- The Commissioner [of Customs and Border Protection] shall . . .submit to the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate, for each of the five calendar years beginning in the calendar year that begins after February 24, 2016, a report that includes compilations of all such wait times [at the 20 U.S. airports that support the highest volume of international travel] and a ranking of such United States airports by wait times.
  - Reference: 6 U.S.C. § 211(n)(1)(C) (2017)
- If the Secretary exercises the authority provided under paragraph (1) [to establish other officers or positions of Assistant Commissioners in U.S. Customs and Border Protection], the Secretary shall notify the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate not later than 30 days before exercising such authority.
  - Reference: 6 U.S.C. § 211(o)(2) (2017)
- The Secretary shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate at least 90 days prior to taking any action which would result in any significant reduction in customs revenue services, including hours of operation, provided at any office within the Department or any port of entry; eliminate or relocate any office of the Department which provides customs revenue services; or eliminate any port of entry.
  - Reference: 6 U.S.C. § 217(b) (2017)
- Not later than September 30, 2007, and each 2-year period thereafter, the Commissioner. . .shall submit a report to the Committee on Finance of the Senate, the Committee on Foreign Relations of the Senate, the Committee on the Judiciary of the Senate, the Committee on Ways and Means of the House of Representatives, the Committee on International Relations of the House of Representatives and the Committee on the Judiciary of the House of Representatives, that includes a comprehensive summary of the analyses described in paragraph (1) [relating to methamphetamine and methamphetamine precursor chemicals]; and a description of how the United States Customs and Border Protection utilized the analysis described in paragraph (1) to target shipments presenting a high risk for smuggling or circumvention of the Combat Methamphetamine Epidemic Act of 2005.
  - Reference: 6 U.S.C. § 220(b)(2) (2017)
- The Secretary shall submit to the appropriate congressional committees. . .an annual report containing the metrics required under this section and the data and methodology used to develop such metrics [border security metrics involving U.S. Customs and Border Protection].
  - Reference: 6 U.S.C. § 223(g)(1)(A) (2017)
- Not later than 60 days after the end of each fiscal year through fiscal year 2026, the Secretary shall submit to the appropriate congressional committees a “State of the Border” report that provides trends for each metric under this section [border security metrics involving U.S. Customs and Border Protection] for the last ten fiscal years, to the greatest extent possible; provides selected analysis into related aspects of illegal flow rages, including undocumented migrant flows and stock estimation techniques; provides

selected analysis into related aspects of legal flow rates; and includes any other information that the Secretary determines appropriate.

- Reference: 6 U.S.C. § 223(g)(3) (2017)
- Not later than 30 days before updating the metrics pursuant to subparagraph (A) [border security metrics involving U.S. Customs and Border Protection], the Secretary shall notify the appropriate congressional committees of such updates.
  - Reference: 6 U.S.C. § 223(g)(4)(B) (2017)
- The Secretary shall, on an annual basis, submit a report to Congress that describes the basis for each determination under paragraph (1) that the assignment of an employee of the Department at a particular diplomatic post would not promote homeland security.
  - Reference: 6 U.S.C. § 236(e)(4) (2017)
- The Secretary, not later than 1 year after being sworn into office, shall submit to the Committee on Appropriations and the Judiciary of the House of Representatives and of the Senate a report with a plan detailing how the Bureau of Border Security, after the transfer of functions specified under section 251 of this title takes effect, will enforce comprehensively, effectively, and fairly all the enforcement provisions of the Immigration and Nationality Act relating to such functions.
  - Reference: 6 U.S.C. § 255(a) (2017)
- The Secretary of Homeland Security shall submit an annual report to the congressional committees set forth in subsection (b) that includes a description of the cross-border tunnels along the border between Mexico and the United States discovered during the preceding fiscal year and the needs of the Department of Homeland Security to effectively prevent, investigate, and prosecute border tunnel construction along the border between Mexico and the United States.
  - Reference: 6 U.S.C. § 257(a) (2017)
- Not later than June 30 of each calendar year, the [Citizenship and Immigration Services] Ombudsman shall report to the Committee on the Judiciary of the House of Representatives and the Senate on the objectives of the Office of the Ombudsman for the fiscal year beginning in such calendar year.
  - Reference: 6 U.S.C. § 272(c)(1) (2017)
- Before the . . . Secretary obligates any resources for voluntary separation incentive payments under this section, such official shall submit to the appropriate committees of Congress a strategic restructuring plan which shall include an organizational chart depicting the covered entities after their restructuring pursuant to this chapter; a summary description of how the authority under this section will be used to help carry out that restructuring; and the information specified in section 663(b)(2) of Public Law 104-208.
  - Reference: 6 U.S.C. § 292(b)(2017)
- One year after November 25, 2002, and each year thereafter, the Secretary shall submit a report to the . . . Committees on the Judiciary and Government Reform of the House of Representatives, and to the Committees on the Judiciary and Government Affairs of the Senate, on the impact the transfers made by this part has had on immigration functions.
  - Reference: 6 U.S.C. § 298(a) (2017)
- The Commissioner of U.S. Customs and Border Protection shall submit an annual report identifying the activities undertaken and the agreements entered into pursuant to this section [fee agreements for certain services at ports of entry] to the Committee on

Appropriation of the Senate; the Committee on Finance of the Senate; the Committee on Homeland Security and Governmental Affairs of the Senate; the Committee on the Judiciary of the Senate; the Committee on Appropriations of the House of Representatives; the Committee on Homeland Security of the House of Representatives; the Committee on the Judiciary of the House of Representatives; and the Committee on Ways and Means of the House of Representatives.

- Reference: 6 U.S.C. § 301(k)(1) (2017)
- The Commissioner of U.S. Customs and Border Protection shall . . .not later than 15 days before entering into a fee agreement [for certain services at ports of entry], notify the members of Congress that represent the State or Congressional District in which the affected port of entry or facility is located of such agreement.
  - Reference: 6 U.S.C. § 301(k)(2) (2017)
- Before accepting any donations pursuant to an agreement under subsection (a) or (b), the Commissioner of U.S. Customs and Border Protection shall certify to the congressional committees set forth in paragraph (7) that the donation will not be used for the construction of a detention facility or border fence or wall.
  - Reference: 6 U.S.C. § 301a(c)(6)(B) (2017)
- The Commissioner of U.S. Customs and Border Protection. . .shall submit an annual report identifying the activities undertaken and agreements entered into pursuant to subsections (a) and (b) [port of entry donations] to the Committee on Appropriations of the Senate; the Committee on Environment and Public Works of the Senate; the Committee on Finance of the Senate; the Committee on Homeland Security and Governmental Affairs of the Senate; the Committee on the Judiciary of the Senate; the Committee on Appropriations of the House of Representatives; the Committee on Homeland Security of the House of Representatives; the Committee on the Judiciary of the House of Representatives; the Committee on Transportation and Infrastructure of the House of Representatives; and the Committee on Ways and Means of the House of Representatives.
  - Reference: 6 U.S.C. § 301a(c)(7) (2017)
- If the [FEMA] Administrator determines that statutory authority is inadequate for the preparedness and deployment of individuals in strike teams under this subsection, the Administrator shall report to Congress regarding the additional statutory authorities that the Administrator determines are necessary.
  - Reference: 6 U.S.C. § 317(f)(6) (2017)
- The Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate an annual report disclosing any gifts that were accepted under this section during the year covered by the report; how gifts contribute to the mission of the Center for Domestic Preparedness; and the amount of Federal savings that were generated from the acceptance of the gifts.
  - Reference: 6 U.S.C. § 321n(c) (2017)
- The [FEMA] Administrator shall submit to the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives each report required under paragraph

(1) [annual performance reports on integrated public alert and warning system modernization].

- Reference: 6 U.S.C. § 321o(e)(2)
- Not later than five days after the date on which the Chief Procurement Officer or the Chief Financial Officer of the Department issues a waiver of the requirement that an agency not engage in business with a contractor or other recipient of funds listed as a party suspended or debarred from receiving contracts, grants, or other types of Federal assistance in the System for Award Management maintained by the General Services Administration, or any successor thereto, the Under Secretary for Management shall submit to the congressional homeland security committees. . .notice of the waiver and an explanation of the finding by the Under Secretary that a compelling reason exists for the waiver.
  - Reference: 6 U.S.C. § 341(b) (2017)
- As part of the annual budget process, the Under Secretary for Management shall review and make determinations regarding annual component requests for funding for vehicle fleets. If component heads have not taken steps in furtherance of achieving optimal fleet size in the prior fiscal year pursuant to paragraphs (4) and (5), the Under Secretary shall provide rescission recommendations to the Committee on Appropriations and the Commission on Homeland Security of the House of Representatives and the Committee on Appropriations and the Committee on Homeland Security and Governmental Affairs of the Senate regarding such component vehicle fleets.
  - Reference: 6 U.S.C. § 341(c)(6) (2017)
- In any case in which appropriations available to the Department or any officer of the Department are transferred or reprogrammed and notice of such transfer or reprogramming is submitted to the Congress (including any officer, office, or Committee of the Congress), the Chief Financial Officer of the Department shall simultaneously submit such notice to the Select Committee on Homeland Security (or any successor to the jurisdiction of that committee) and the Committee on Government Reform of the House of Representatives, and to the Committee on Governmental Affairs of the Senate.
  - Reference: 6 U.S.C. § 342(c) (2017)
- Not later than 90 days after the date on which the Secretary submits the annual budget justification for the Department, the Secretary shall submit to the congressional homeland security committees a report that includes a table, delineated by component with actual and enacted amounts, including information on the progress within the Department of fulfilling the workforce strategies developed under subsection (c); the number of on-board staffing for Federal employees from the prior fiscal year; the total contract hours submitted by each prime contractor as part of the service contract inventory required under section 743 of the Financial Services and General Government Appropriations Act, 2010; and the number of full-time equivalent personnel identified under the Intergovernmental Personnel Act of 1970.
  - Reference: 6 U.S.C. § 344(d) (2017)
- In fiscal year 2009, and every 4 years thereafter, the Secretary shall conduct a review of homeland security of the Nation. . .Not later than December 31 of the year in which a quadrennial homeland security review is conducted, the Secretary shall submit to Congress a report regarding that quadrennial homeland security review.
  - Reference: 6 U.S.C. § 347 (2017)

- The Secretary shall, at the time the budget of the President is submitted to Congress for a fiscal year under section 1105(a) of Title 31, submit to the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate a report on the total funding, personnel, and other resources that each component or office of the Department allocated under this paragraph to each Joint Task Force to carry out the mission of such Joint Task Force during the fiscal year immediately preceding each such report, and a description of the degree to which the resources drawn from each component or office impact the primary mission of such component or office.
  - Reference: 6 U.S.C. § 348(b)(6)(F) (2017)
- The Secretary shall. . .not later than 120 days after December 23, 2016 and 120 days after the establishment of a new Joint Task Force, as appropriate, submit to the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate the [outcome-based and performance] metrics established under subparagraph (A).
  - Reference: 6 U.S.C. § 348(b)(9)(B) (2017)
- The Secretary shall. . .not later than January 31 of each year beginning in 2017, submit to each committee specified in subparagraph (B) a report that contains the evaluation [of the effectiveness of each Joint Task Force] described in subparagraph (A).
  - Reference: 6 U.S.C. § 348(b)(9)(C) (2017)
- Not later than 90 days before establishing a Joint Task Force under this subsection, the Secretary shall submit to the majority leader of the Senate, the minority leader of the Senate, the Speaker of the House of Representatives, the majority leader of the House of Representatives, the minority leader of the House of Representatives, and the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate a notification regarding such establishment.
  - Reference: 6 U.S.C. § 348(b)(11)(A) (2017)
- Not later than January 31, 2018, and January 31, 2021, the Inspector General of the Department shall submit to the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate a review of the Joint Task Forces established under this subsection.
  - Reference: 6 U.S.C. § 348(b)(12)(A) (2017)
- The Secretary shall submit to the President of the Senate, the Speaker of the House of Representatives, and the appropriate committees and subcommittees of Congress on an annual basis a report on the implementation of this section, including the use of funds appropriated to carry out this section, and detailing any allegations of abuses described under subsection (a)(1) of this section and any actions taken by the Department in response to such allegations.
  - Reference: 6 U.S.C. § 345(b) (2017)

- The Secretary of Homeland Security shall annually submit to the Committees on Appropriations of the Senate and House of Representatives, at the time that the President’s budget is submitted under section 1105(a) of title 31, a summary of such audits [financial audits of closed undercover investigative operations by the Secret Service].
  - Reference: 6 U.S.C. § 382(e)(2) (2017)
- The Secretary shall provide an annual report to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Homeland Security of the House of Representatives detailing the projects for which the authority granted by subsection (a) was used [research and development pilot projects], the rationale for its use, the funds spent using that authority, the outcome of each project for which that authority was used, and the results of any audits of such projects.
  - Reference: 6 U.S.C. § 391(c)(2) (2017)
- An entity described in subsection (a) [entity performing lead system integrator functions in the acquisition of a major system by DHS] of this section may have a direct financial interest in the development or construction of an individual system or element of a system of systems if the Secretary of Homeland Security certifies to the Committee on Appropriations of the Senate and the House of Representatives, the Committee on Homeland Security of the House of Representatives, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Commerce, Science, and Transportation of the Senate that the entity was selected by the Department of Homeland Security as a contractor to develop or construct the system or element concerned through the use of competitive procedures and the Department took appropriate steps to prevent any organizational conflict of interest in the selection process; or the entity was selected by a subcontractor to serve as a lower-tier subcontractor, through a process over which the entity exercised no control.
  - Reference: 6 U.S.C. § 396(b) (2017)
- Each budget request submitted to Congress for the department under section 1105 of Title 31 shall, at or about the same time, be accompanied by a Future Years Homeland Security Program.
  - Reference: 6 U.S.C. § 454 (2017)
- The Director of the Office of Counternarcotics Enforcement shall, not later than 30 days after the submission by the President to Congress of any request for expenditures for the Department, submit to the Committees on Appropriations and the authorizing committees of jurisdiction of the House of Representatives and the Senate a review and evaluation of such request.
  - Reference: 6 U.S.C. § 458(f)(1) (2017)
- The Director of the Office of Counternarcotics Enforcement shall, not later than February 1 of each year, submit to the Committees on Appropriations and the authorizing committees of jurisdiction of the House of Representatives and the Senate a review and evaluation of the counternarcotics activities of the Department for the previous fiscal year.
  - Reference: 6 U.S.C. § 458(f)(2) (2017)

- The Office [of National Capital Region Coordination] established under subsection (a) of this section shall submit an annual report to Congress that includes the identification of the resources required to fully implement homeland security efforts in the National Capital Region; an assessment of the progress made by the National Capital Region in implementing homeland security efforts; and recommendations to Congress regarding the additional resources needed to fully implement homeland security efforts in the National Capital Region.
  - Reference: 6 U.S.C. § 462(c) (2017)
- The Director [of the FLETC] shall provide to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate, upon request, information on activities undertaken in the previous year pursuant to subparagraph (A) [strategic partnerships with state and local law enforcement].
  - Reference: 6 U.S.C. § 464(d)(4)(B) (2017)
- The Secretary may waive the restrictions under paragraph (1) [involving reducing the missions of the Coast Guard] for a period of not to exceed 90 days upon a declaration and certification by the Secretary to Congress that a clear, compelling and immediate need exists for such a waiver.
  - Reference: 6 U.S.C. § 468(e)(2) (2017)
- The Secretary of Homeland Security shall submit to Congress, 180 days after January 17, 2014, and annually thereafter beginning with the submission of the President's budget proposal for fiscal year 2016 pursuant to section 1105(a) of Title 31, a comprehensive report on the purchase and usage of ammunition, subdivided by ammunition type.
  - Reference: 6 U.S.C. § 471(a) (2017)
- The Secretary of Homeland Security shall submit to the Congress, not later than 180 days after March 4, 2015, and annually thereafter, beginning at the time the President's budget proposal for fiscal year 2017 is submitted pursuant to section 1105(a) of Title 31, a comprehensive report on the purchase and usage of weapons, subdivided by weapon type.
  - Reference: 6 U.S.C. § 472(a) (2017)
- The CEIU shall make the data collected and maintained under paragraph (3) [involving total number of suspects, arrests, and cases involving child exploitation] available to the committees of Congress described in paragraph (7).
  - Reference: 6 U.S.C. § 473(b)(4) (2017)
- Not later than 1 year after May 29, 2015, and annually for the following 4 years, the CEIU shall submit a report containing a summary of the data collected pursuant to paragraph (3) [involving total number of suspects, arrests, and cases involving child exploitation] during the previous year to the Committee on Homeland Security and Governmental Affairs of the Senate; the Committee on the Judiciary of the Senate; the Committee on Appropriations of the Senate; the Committee on Homeland Security of the House of Representatives; the Committee on the Judiciary of the House of Representatives; and the Committee on Appropriations of the House of Representatives.
  - Reference: 6 U.S.C. § 473(b)(7) (2017)
- Beginning 2 years after the date the [5-year technology investment] Plan is submitted to Congress under subsection (a), and biennially thereafter, the [TSA] Administrator shall submit to Congress an update of the Plan and a report on the extent to which each security-related technology acquired by the Administration since the last issuance or

update of the Plan is consistent with the planned technology programs and projects identified under subsection (d)(2) for that security-related technology.

- Reference: 6 U.S.C. § 563(g) (2017)
- Not later than the end of the 30-day period preceding the award by the Administration of a contract for any security-related technology acquisition exceeding \$30,000,000, the [TSA] Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives the results of the comprehensive acquisition justification under subsection (a) and a certification by the Administrator that the benefits to transportation security justify the contract cost.
  - Reference: 6 U.S.C. § 563a(b)(1) (2017)
- If there is a known or suspected imminent threat to transportation security, the Administrator may reduce the 30-day period under paragraph (1) [security-related technology acquisition] to 5 days to rapidly respond to the threat and shall immediately notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives of the known or suspected imminent threat.
  - Reference: 6 U.S.C. § 563a(b)(2) (2017)
- Not later than 30 days after making a finding described in clause (i), (ii), or (iii) of subparagraph (A), the [TSA] Administrator shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives that includes the results of any assessment that finds the actual or planned costs exceed the baseline costs by more than 10 percent; the actual or planned schedule for delivery has been delayed by more than 180 days; or there is a failure to meet any performance milestone that directly impacts security effectiveness; the cause for such excessive costs, delay or failure; and a plan for corrective action.
  - Reference: 6 U.S.C. § 563b(b)(2) (2017)
- Not later than 90 days after December 18, 2014, and annually thereafter, the Administrator shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives that includes the [a summary of the Administration's performance record with respect to small business contracting goals].
  - Reference: 6 U.S.C. § 563d (2017)
- Not later than one year after October 4, 2006, and biennially thereafter, the Secretary, acting through the Director for Emergency Communications, shall submit to Congress a report on the progress of the Department in achieving the goals of, and carrying out its responsibilities under, this subchapter [assessment of federal, state, local and tribal governments' emergency communications capabilities].
  - Reference: 6 U.S.C. § 573(d) (2017)
- At least once each year, the Director of Emergency communications shall submit to Congress a report on the use of grants awarded under this section and any progress in implementing Statewide Interoperable Communications Plans and improving interoperability at the city, county, regional, State, and interstate level, as a result of the award of such grants.
  - Reference: 6 U.S.C. § 579(m)(2) (2017)

- The [Domestic Nuclear Detection] Office shall . . . provide an annual report to Congress on the activities carried out under paragraphs (10) [national strategic five-year plan for improving U.S. nuclear forensic and attribution capabilities], (11) [National Technical Nuclear Forensics Center, and (12) [National Nuclear Forensics Expertise Development Program].
  - Reference: 6 U.S.C. § 592(a)(13) (2017)
- The Director for Domestic Nuclear Detection and the Under Secretary for Science and Technology shall jointly and annually notify Congress that the strategy and technology road map for nuclear and radiological detection developed under subsection (a) and (b) of this section is consistent with the national policy and strategic plan for identifying priorities, goals, objectives, and policies for coordinating the Federal Governments civilian efforts to identify and develop countermeasures to terrorist threats from weapons of mass destruction that are required under section 182(2) of this title.
  - Reference: 6 U.S.C. § 592a(d) (2017)
- Not later than March 31 of each year, the Secretary, the Attorney General, the Secretary of State, the Secretary of Defense, the Secretary of Energy, and the Director of National Intelligence, shall jointly submit a report regarding the implementation of this section [joint annual interagency review of global nuclear detection architecture] and the results of the reviews required under subsection (a) of this section to . . . the Committee on Appropriations, the Committee on Armed Services, the Select Committee on Intelligence, and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Appropriations, the Committee on Armed Services, the Permanent Select Committee on Intelligence, the Committee on Homeland Security, and the Committee on Science and Technology of the House of Representatives.
  - Reference: 6 U.S.C. § 596a (2017)
- Before the date on which the Commandant establishes a [National Coast Guard] museum under subsection (a), the Commandant shall provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a plan for constructing, operating, and maintaining such a museum.
  - Reference: 14 U.S.C. § 98(c) (2017)<sup>208</sup>
- At least 90 days prior to making a final determination that a waterway, or a portion thereof, is navigable for purposes of the jurisdiction of the Coast Guard, the Commandant shall provide notification regarding the proposed determination to . . . the Committee on Commerce, Science and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.
  - Reference: 14 U.S.C. § 103(a)(3) (2017)<sup>209</sup>
- Not later than January 1, 2016, and every 5 years thereafter, the Commandant shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a 5-year strategic plan to guide interagency and international intergovernmental cooperation and coordination for the purpose of improving maritime domain awareness in the Arctic.

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<sup>208</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>209</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

- Reference: 14 U.S.C. § 154(d) (2017)<sup>210</sup>
- The Commandant shall transmit each report [on sexual harassment and sexual violence involving cadets or other Academy personnel for each Academy program year] received by the Commandant under this subsection, together with the Commandant’s comments on the report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.
  - Reference: 14 U.S.C. § 200(d)(4) (2017)<sup>211</sup>
- The Secretary shall submit any finding made by the Secretary pursuant to paragraph (2) [relating to improving Coast Guard officer retention] to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.
  - Reference: 14 U.S.C. § 259(c)(3) (2017)<sup>212</sup>
- On the date on which the President submits to Congress a budget for fiscal year 2016 under section 1105 of title 31, on the date on which the President submits to Congress a budget for fiscal year 2019 under such section, and every 4 years thereafter, the Commandant shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an integrated major acquisition mission need statement.
  - Reference: 14 U.S.C. § 569(a) (2017)<sup>213</sup>
- Any safety concerns that have been reported to the Chief Acquisition Officer for an acquisition program or project shall be reported by the Commandant to the appropriate congressional committees at least 90 days before the award of any contract or issuance of any delivery order or task order for low, initial, for full-rate production of the capability of asset concerned if they will remain uncorrected and unmitigated at the time such a contract is awarded or delivery order or task order is issued.
  - Reference: 14 U.S.C. § 573(b)(4) (2017)<sup>214</sup>
- The Commandant shall submit a report to the appropriate congressional committees and the Committee on Homeland Security of the House of Representatives as soon as possible, but not later than 30 days, after the Chief Acquisition Officer of the Coast Guard becomes aware of the breach of an acquisition program baseline for any Level 1 or level 2 acquisition program by a likely cost overrun greater than 15 percent of the acquisition program baseline for that individual capability or asset or a class of capabilities or assets; a likely delay of more than 180 days in the delivery schedule for any individual capability or asset or class of capabilities or assets; or an anticipated failure for any individual capability or asset or class of capabilities or assets to satisfy any key performance threshold or parameter under the acquisition program baseline.
  - Reference: 14 U.S.C. § 575(a) (2017)<sup>215</sup>
- Not later than the date on which the President submits to Congress a budget under section 1105 of title 31 each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce,

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<sup>210</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>211</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>212</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>213</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>214</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>215</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

Science, and Transportation of the Senate a report describing each project carried out under paragraph (1), in the most recently concluded fiscal year, for which the amount expended under such paragraph for such project was more than \$1,000,000.

- Reference: 14 U.S.C. § 656(d)(2) (2017)<sup>216</sup>
- Before January 1 of each year, the Secretary shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that includes a verification of each activity for which a fee or charge is collected under any law stating the amount collected in the prior fiscal year and that the amount spent on that activity in that fiscal year is not less than the amount collected and the amount expected to be collected under any law in the current fiscal year for each activity for which a fee or charge is expected to be collected.
  - Reference: 14 U.S.C. § 664(g) (2017)<sup>217</sup>
- Prior to closure, cessation of operations, or any significant reduction in personnel and use of a Coast Guard air facility that is in operation on or after December 31, 2015, the Secretary shall submit to the Congress a proposal for such closure, cessation, or reduction in operations along with the budget of the President submitted to Congress under section 1105(a) of title 31 for the fiscal year in which the action will be carried out and not later than 7 days after the date a proposal for an air facility is submitted pursuant to subparagraph (A), provide written notice of such proposal to each of the following: Each member of the House of Representatives who represents a district in which the air facility is located; each member of the Senate who represents a State in which the air facility is located; each member of the House of Representatives who represents a district in which assets of the air facility conduct search and rescue operations; each member of the Senate who represents a State in which the assets of the air facility conduct search and rescue operations; the Committee on Appropriations of the House of Representatives; the Committee on Transportation and Infrastructure of the House of Representatives; the Committee on Appropriations of the Senate; the Committee on Commerce, Science, and Transportation of the Senate.
  - Reference: 14 U.S.C. § 676a(b) (2017)<sup>218</sup>
- Not later than March 30, 2016, and every 5 years thereafter, the Commandant shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that includes a list of all real property under the control of the Coast Guard and the location of such property by property type; recommendations for divestiture with respect to any units of such property; and recommendations for consolidating any units of such property including an estimate of the costs or savings associated with each recommended consolidation and a discussion of the impact that such consolidation would have on Coast Guard mission effectiveness.
  - Reference: 14 U.S.C. § 679(c) (2017)<sup>219</sup>
- The Secretary may not carry out activities related to the dismantling or disposal of infrastructure comprising the LORAN-C system until the date on which the Secretary

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<sup>216</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>217</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>218</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>219</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

provides to the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate notice of a determination by the Secretary that such infrastructure is not required to provide a positioning, navigation, and timing system to provide redundant capability in the event the Global Positioning System signals are disrupted.

- Reference: 14 U.S.C. § 681(a) (2017)<sup>220</sup>
- The Secretary shall prepare and submit to Congress, concurrent with the budget submitted pursuant to section 1105 of title 31, a report identifying the contracts or agreements for the conveyance of properties pursuant to this chapter executed during the prior calendar year.
  - Reference: 14 U.S.C. § 688 (2017)<sup>221</sup>
- The Commandant of the Coast Guard shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a prioritized list of projects eligible for environmental compliance and restoration funding for each fiscal year concurrent with the President's budget submission for that fiscal year.
  - Reference: 14 U.S.C. § 693 (2017)<sup>222</sup>
- Not later than 30 days after the date on which the President submits to Congress a budget for a fiscal year pursuant to section 1105 of title 31, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a Coast Guard authorization request with respect to such fiscal year.
  - Reference: 14 U.S.C. § 2901(a) (2017)<sup>223</sup>
- On the date on which the President submits to Congress a budget pursuant to section 1105 of title 31, the Commandant of the Coast Guard shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a capital investment plan for the Coast Guard that identifies for each capital asset for which appropriations are proposed in that budget the proposed appropriations included in the budget; the total estimated cost of completion based on the proposed appropriations included in the budget; projected funding levels for each fiscal year for the next 5 years or until project completion, whichever is earlier; an estimated completion date based on the proposed appropriations included in the budget; and an acquisition program baseline as applicable and a list of each unfunded priority for the Coast Guard.
  - Reference: 14 U.S.C. § 2902(a) (2017)<sup>224</sup>
- In conjunction with the transmittal by the President to Congress of the budget of the United States for fiscal year 2014 and biennially thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the status of all major acquisition programs.

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<sup>220</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>221</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>222</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>223</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>224</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

- Reference: 14 U.S.C. § 2903(a) (2017)<sup>225</sup>
- Not later than 15 days after the end of each fiscal year quarter, the Commandant of the Coast Guard shall submit to the committees of Congress specified in subsection (a) [Senate Commerce, Science, and Transportation and House Transportation and Infrastructure] an updating setting forth a current assessment of the risks associated with all current major acquisition programs.
  - Reference: 14 U.S.C. § 2903(f) (2017)<sup>226</sup>
- On the date on which the President submits to the Congress a budget for fiscal year 2017 under section 1105 of title 31, on the date on which the President submits to the Congress a budget for fiscal year 2019 under such section, and every 4 years thereafter, the Commandant shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a manpower requirements plan.
  - Reference: 14 U.S.C. § 2904(a) (2017)<sup>227</sup>
- After December 31, 2005, the Secretary of Homeland Security shall submit the National Strategy for Transportation Security, including the transportation modal security plans and any revisions to the National Transportation Security and the transportation modal security plans, to appropriate congressional committees not less frequently than April 1 of each even-numbered year.
  - Reference: 49 U.S.C. § 114(s)(4)(B) (2017)<sup>228</sup>
- Each year, in conjunction with the submission of the budget to Congress under section 1105(a) of title 31, United States Code, the Secretary of Homeland Security shall submit to the appropriate congressional committees an assessment of the progress made on implementing the National Strategy for Transportation Security, including the transportation modal security plans.
  - Reference: 49 U.S.C. § 114(s)(4)(C) (2017)<sup>229</sup>
- At the end of each fiscal year, the Secretary of Homeland Security shall submit to the appropriate congressional committees a written explanation of any Federal transportation security activity that is inconsistent with the National Strategy for Transportation Security, including the amount of funds to be expended for the activity and the number of personnel involved.
  - Reference: 49 U.S.C. § 114(s)(4)(C)(iii) (2017)<sup>230</sup>
- Not later than 150 days after the date of the enactment of this subsection, and annually thereafter, the Secretary shall submit to the appropriate congressional committees, a report containing the [Transportation Security Information Sharing] Plan.
  - Reference: 49 U.S.C. § 114(u)(6)(A) (2017)<sup>231</sup>

*Review Commissions:* Any regulation or security directive issued under this paragraph [emergency procedures] shall be subject to review by the Transportation Security Oversight Board established under section 115. Any regulation or security directive

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<sup>225</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>226</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>227</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>228</sup> Incorporated into DHS through 6 U.S.C. § 203(2) (2017).

<sup>229</sup> Incorporated into DHS through 6 U.S.C. § 203(2) (2017).

<sup>230</sup> Incorporated into DHS through 6 U.S.C. § 203(2) (2017).

<sup>231</sup> Incorporated into DHS through 6 U.S.C. § 203(2) (2017).

issued under this paragraph shall remain effective for a period of not to exceed 90 days unless ratified or disapproved by the Board or rescinded by the Under Secretary [TSA Administrator].

- Reference: 49 U.S.C. § 114(l)(2)(B) (2017)<sup>232</sup>

*Advisory Commissions:* The Secretary shall consult with the representatives of the business community involved in international trade, including seeking the advice and recommendations of the Commercial Operations Advisory Committee, not later than 30 days after proposing, and not later than 30 days before finalizing, any Department policies, initiatives, or actions that will have a significant impact on international trade and customs revenue functions.

- Reference: 6 U.S.C. § 115(c)(1) (2017)
- The Secretary, or the Secretary's designee, in coordination with . . . the ITACG Advisory Council, shall create policies [and develop processes for the integration, analysis, and dissemination of federally-coordinated information].
  - Reference: 6 U.S.C. § 124k(d) (2017)
- The Secretary may establish a consortium to be known as the "National Infrastructure Protection Consortium." The Consortium may advise the Secretary on the best way to identify, general, organize, and maintain any database or list of systems and assets established by the Secretary, including the database established under subsection (a)(1) of this section and the list established under subsection (a)(2) of this section.
  - Reference: 6 U.S.C. § 124l(f) (2017)
- The Directing Officer of the NBIC shall establish an interagency working group to facilitate interagency cooperation and to advise the Directing Officer of the NBIC regarding recommendations to enhance the bio surveillance capabilities of the Department.
  - Reference: 6 U.S.C. § 195b(g) (2017)
- The Secretary shall establish, not later than 60 days after the effective date of this chapter, an advisory committee (in this section referred to as the Technology Advisory Committee) to assist the Secretary in establishing the tracking system under subsection (a) and conducting the study under subsection (b) of this section [online filings under the Immigration and Nationality Act]
  - Reference: 6 U.S.C. § 278(c) (2017)
- Each [FEMA] Regional Administrator shall establish a Regional Advisory Council. . . Each Regional Advisory Council shall advise the Regional Administrator on emergency management issues specific to that region.
  - Reference: 6 U.S.C. § 317(e) (2017)
- Not later than 60 days after October 4, 2006, the Secretary shall establish an advisory body under section 451(a) of this title to ensure effective and ongoing coordination of Federal preparedness, protection, response, recovery, and mitigation for natural disasters, acts of terrorism, and other man-made disasters, to be known as the National Advisory Council. The National Advisory Council shall advise the [FEMA] Administrator on all aspects of emergency management.
  - Reference: 6 U.S.C. § 318 (2017)

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<sup>232</sup> Incorporated into DHS through 6 U.S.C. § 203(2) (2017).

- The Secretary may establish, appoint members of, and use the services of, advisory committees, as the Secretary may deem necessary.
  - Reference: 6 U.S.C. § 451 (2017)
- The [FEMA] Administrator shall submit to the appropriate committees of Congress annually the Federal Preparedness Report required under section 752(a) of this title.
  - Reference: 6 U.S.C. § 612(c)(1) (2017)
- For each fiscal year, the [FEMA] Administrator shall provide to the appropriate committees of Congress a detailed and comprehensive explanation of the methodologies used to calculate risk and compute the allocation of funds for grants administered by the Department, including all variables included in the risk assessment and the weights assigned to each such variable; an explanation of how each such variable, as weighted, correlates to risk, and the basis for concluding there is such a correlation; and any change in the methodologies from the previous fiscal year, including changes in variables considered, weighting of those variables, and computational methods.
  - Reference: 6 U.S.C. § 612(c)(2) (2017)
- The end of each fiscal year, the [FEMA] Administrator shall submit to the appropriate committees of Congress a report setting forth the amount of funding provided during that fiscal year to Indian tribes under any grant program administered by the Department, whether provided directly or through a subgrant from a State or high-risk urban area.
  - Reference: 6 U.S.C. § 612(c)(3) (2017)
- Not later than 1 year after the date on which the initial report is required to be submitted under subsection (b) [assessment of redundant reporting requirements], and once every 2 years thereafter, the [FEMA] Administrator shall submit to the appropriate committees of Congress a grants management report that includes [the status of efforts to eliminated redundant reporting requirements].
  - Reference: 6 U.S.C. § 613(c) (2017)
- Not later than 6 months after December 18, 2014, and not less frequently than once every 6 months thereafter, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security and the Committee on Energy and Commerce of the House of Representatives a report that includes, for the period covered by the report [information describing the Chemical Facility Anti-Terrorism Standards Program and facilities].
  - Reference: 6 U.S.C. § 622(e)(4) (2017)
- The Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security and the Committee on Energy and Commerce of the House of Representatives a report on best practices that may assist small covered chemical facilities in development of physical security best practices.
  - Reference: 6 U.S.C. § 628(c) (2017)
- Not later than 1 year after May 29, 2015 and annually thereafter, the Secretary shall report to Congress with respect to the overall effectiveness of the program required by this subchapter [Anti-Trafficking Training for DHS Personnel], the number of cases reported by Department personnel in which human trafficking was suspected, and, of those cases, the number of cases that were confirmed cases of human trafficking.
  - Reference: 6 U.S.C. § 643(b) (2017)

- A Board of Visitors to the Coast Guard Academy is established to review and make recommendations on the operation of the Academy.
  - Reference: 14 U.S.C. § 194 (2017)<sup>233</sup>
- The Secretary shall convene a Coast Guard Reserve Policy Board at least annually to consider, recommend, and report to the Secretary on Reserve policy matters.
  - Reference: 14 U.S.C. § 703 (2017)<sup>234</sup>
- In consultation with the Transportation Security Oversight Board, the Under Secretary shall [establish procedures and enter into memoranda of understanding for management of security information].
  - Reference: 49 U.S.C. § 114(h) (2017)<sup>235</sup>

*Action Require Outside Approval:* The Secretary of Defense, the Secretary of Health and Human Services, the Secretary of Homeland Security, and the Secretary of Agriculture shall jointly develop a national biodefense strategy and associated implementation plan, which shall include a review and assessment of biodefense policies, practices, programs, and initiatives. Such Secretaries shall review and, as appropriate, revise the strategy biennially.

- Reference: 6 U.S.C. § 104(a) (2017)
- In order to promote the safety of life and property on and over the high seas and waters over which the United States has jurisdiction, and to facilitate the preparation and dissemination by the National Oceanic and Atmospheric Administration of the weather reports, forecasts, and warnings essential to the safe and efficient conduct of domestic and international commerce on and over such seas and waters, the Commandant may cooperate with the Administrator, National Oceanic and Atmospheric Administration by procuring, maintaining, and making available, facilities and assistance for observing, investigating, and communicating weather phenomena and for disseminating weather data, forecasts and warnings, the mutually satisfactory terms of such cooperation to be agreed upon and arranged between the Commandant and the Administrator, National Oceanic and Atmospheric Administration.
  - Reference: 14 U.S.C. § 147 (2017)<sup>236</sup>
- The President may remove the name of any officer from a list of selectees established under section 271 of this title [Coast Guard officer promotion procedures]. If the Senate does not consent to the appointment of an officer whose name is on a list of selectees established under section 271 of this title, that officer's name shall be removed from this list.
  - Reference: 14 U.S.C. § 272 (2017)<sup>237</sup>
- The Secretary is authorized, subject to regulations approved by the President to designate as rental housing such housing as he may determine to be inadequate as public quarters and to lease inadequate housing to members of the Coast Guard for occupancy by them and their dependents.
  - Reference: 14 U.S.C. § 475(b) (2017)<sup>238</sup>

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<sup>233</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>234</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>235</sup> Incorporated into DHS through 6 U.S.C. § 203(2) (2017).

<sup>236</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>237</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>238</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

- Obligations may, without regard to fiscal year limitation be incurred against anticipated reimbursement to the Coast Guard Supply Fund in such amount and for such period, as the Secretary, with approval of the Director of the Office of Management and Budget, may determine to be necessary to maintain stock levels consistently with planned operations for the next year.
  - Reference: 14 U.S.C. § 650(b) (2017)<sup>239</sup>
- Any regulation or security directive issued under this paragraph [emergency procedures] shall be subject to review by the Transportation Security Oversight Board established under section 115. Any regulation or security directive issued under this paragraph shall remain effective for a period of not to exceed 90 days unless ratified or disapproved by the Board or rescinded by the Under Secretary [TSA Administrator].
  - Reference: 49 U.S.C. § 114(l)(2)(B) (2017)<sup>240</sup>
- The Under Secretary [TSA Administrator] shall not take an aviation security action under this title if the Administrator of the Federal Aviation Administration notifies the Under Secretary that the action could adversely affect the airworthiness of an aircraft. Notwithstanding subparagraph (A), the Under Secretary may take such an action after receiving a notification concerning the action from the Administrator under subparagraph (A), if the Secretary of Transportation subsequently approves the action.
  - Reference: 49 U.S.C. § 114(l)(4) (2017)<sup>241</sup>
- Before the end of the transition period, as defined in section 541 of this title, the Secretary of Agriculture and the Secretary shall enter into an agreement to effectuate the transfer of functions required by subsection (a) of this section [transfer of certain agricultural inspection functions of the USDA]. The Secretary of Agriculture and the Secretary may jointly revise the agreement as necessary thereafter.

*Legislative Veto:* None

*Adjudication:* None

### **Domestic Nuclear Detection Office**

*Date of Creation:* October 13, 2006<sup>242</sup>

*Statute:* 6 U.S.C. §§ 591-596a (2017)

*Authorizing Language:* There shall be established in the Department a Domestic Nuclear Detection Office.

- Reference: 6 U.S.C. § 591(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* In hiring personnel for the Office, the Secretary shall have the hiring and management authorities provided in section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999.<sup>243</sup> The term of appointments for

<sup>239</sup> Incorporated into DHS through 6 U.S.C. § 468(b) (2017).

<sup>240</sup> Incorporated into DHS through 6 U.S.C. § 203(2) (2017).

<sup>241</sup> Incorporated into DHS through 6 U.S.C. § 203(2) (2017).

<sup>242</sup> Security and Accountability for Every Port Act of 2006, Pub. L. No. 109-347, 120 Stat. 1884 (2006).

<sup>243</sup> Under the program, the Secretary may appoint not more than 20 scientific and engineering positions without regard to any provision of Title 5 regarding the appointment of employees in the civil service. In addition, the Secretary may prescribe rates of pay notwithstanding any provision of Title 5 (not in excess of the maximum rate of

employees under subsection (c)(1) of such section may not exceed 5 years before granting any extension under subsection (c)(2) of such section.

- Reference: 6 U.S.C. § 593 (2017)

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The Office shall be headed by a Director for Domestic Nuclear Detection, who shall be appointed by the President.

- Reference: 6 U.S.C. § 591(b) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The Office may direct that private section entities utilizing Government facilities in accordance with this section pay an appropriate fee to the agency that owns or operates those facilities to defray additional costs to the Government resulting from such use. . . Fees for services made available under this section shall not exceed the amount necessary to recoup the direct and indirect costs involved. . . Fees received for services made available under this section may be credited to the appropriation from which funds were expended to provide such services.

- Reference: 6 U.S.C. § 594 (2017)

*Reporting Requirements:* The Office shall. . . provide an annual report to Congress on the activities carried out under paragraphs (10) [national strategic five-year plan for improving U.S. nuclear forensic and attribution capabilities], (11) [National Technical Nuclear Forensics Center, and (12) [National Nuclear Forensics Expertise Development Program].

- Reference: 6 U.S.C. § 592(a)(13) (2017)

- The Director for Domestic Nuclear Detection and the Under Secretary for Science and Technology shall jointly and annually notify Congress that the strategy and technology road map for nuclear and radiological detection developed under subsection (a) and (b) of this section is consistent with the national policy and strategic plan for identifying priorities, goals, objectives, and policies for coordinating the Federal Governments civilian efforts to identify and develop countermeasures to terrorist threats from weapons of mass destruction that are required under section 182(2) of this title.

- Reference: 6 U.S.C. § 592a(d) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* The Office shall. . . establish, with the approval of the Secretary and in coordination with the Attorney General, the Secretary of Defense, and the Secretary of Energy, additional protocols and procedures for use within the United

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basic pay authorized for senior-level positions under 5 U.S.C. § 5376). Pub. L. No. 105-261 § 1101, 112 Stat. 2139 (1998).

States to ensure that the detection of unauthorized nuclear explosive devices, fissile material, or radiological material is promptly reported to the Attorney General, the Secretary, the Secretary of Defense, the Secretary of Energy, and other appropriate officials or their respective designees for appropriate action by law enforcement, military, emergency response, or other authorities.

- Reference: 6 U.S.C. § 592(a)(3) (2017)
- The Office shall. . .develop, with the approval of the Secretary and in coordination with the Attorney General, the Secretary of Defense, and the Secretary of Energy, an enhanced global nuclear detection architecture with implementation under which the Office will be responsible for the implementation of the domestic portion of the global architecture; the Secretary of Defense will retain responsibility for implementation of Department of Defense requirements within and outside the United States; and the Secretary of State, the Secretary of Defense, and the Secretary of Energy will maintain their respective responsibilities for policy guidance and implementation of the portion of the global architecture outside the United States, which will be implemented consistent with applicable law and relevant international arrangements.
  - Reference: 6 U.S.C. § 592(a)(4) (2017)

*Legislative Veto:* None

*Adjudication:* None

### **Federal Emergency Management Agency**

*Date of Creation:* March 31, 1979<sup>244</sup>

*Statute:* 6 U.S.C. §§ 311-321q (2017)

*Authorizing Language:* There is in the Department the Federal Emergency Management Agency.

- Reference: 6 U.S.C. § 313(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* The Administrator shall be appointed from among individuals who have a demonstrated ability in and knowledge of emergency management and homeland security and not less than 5 years of executive leadership and management experience in the public or private sector.

- Reference: 6 U.S.C. § 313(c)(2) (2017)
- Each Regional Administrator shall be appointed from among individuals who have a demonstrated ability in and knowledge of emergency management and homeland security. In selecting a Regional Administrator for a Regional Office, the Administrator shall consider the familiarity of an individual with the geographical and demographic characteristics of the population served by such Regional Office.
  - Reference: 6 U.S.C. § 317(b)(2) (2017)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

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<sup>244</sup> Executive Order No. 12,127 (1979).

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* There is in the Department the Federal Emergency Management Agency, headed by an Administrator.

- Reference: 6 U.S.C. § 313(a) (2017)
- The Administrator shall be appointed by the President, by and with the advice and consent of the Senate.
  - Reference: 6 U.S.C. § 313(c)(1) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The Secretary may accept and use gifts of property, both real and personal, and may accept gifts of services, including from guest lecturers, for otherwise authorized activities of the Center for Domestic Preparedness that are related to efforts to prevent, prepare for, protect against, or respond to a natural disaster, act of terrorism, or other man-made disaster, including the use of a weapon of mass destruction.

- Reference: 6 U.S.C. § 321n(a) (2017)

*Reporting Requirements:* If the Administrator determines that statutory authority is inadequate for the preparedness and deployment of individuals in strike teams under this subsection, the Administrator shall report to Congress regarding the additional statutory authorities that the Administrator determines are necessary.

- Reference: 6 U.S.C. § 317(f)(6) (2017)
- The Secretary shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate an annual report disclosing any gifts that were accepted under this section during the year covered by the report; how gifts contribute to the mission of the Center for Domestic Preparedness; and the amount of Federal savings that were generated from the acceptance of the gifts.
  - Reference: 6 U.S.C. § 321n(c) (2017)
- The Administrator shall submit to the Committee on Homeland Security and Governmental Affairs and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives each report required under paragraph (1) [annual performance reports on integrated public alert and warning system modernization].
  - Reference: 6 U.S.C. § 321o(e)(2)

*Review Commissions:* None

*Advisory Commissions:* Each Regional Administrator shall establish a Regional Advisory Council. . . Each Regional Advisory Council shall advise the Regional Administrator on emergency management issues specific to that region.

- Reference: 6 U.S.C. § 317(e) (2017)
- Not later than 60 days after October 4, 2006, the Secretary shall establish an advisory body under section 451(a) of this title to ensure effective and ongoing coordination of Federal preparedness, protection, response, recovery, and mitigation for natural disasters, acts of terrorism, and other man-made disasters, to be known as the National Advisory Council. The National Advisory Council shall advise the Administrator on all aspects of emergency management.

- Reference: 6 U.S.C. § 318 (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Federal Law Enforcement Training Center**

*Date of Creation:* March 2, 1970<sup>245</sup>

*Statute:* 6 U.S.C. §§ 204; 464 (2017)

*Authorizing Language:* In accordance with subchapter XII of this chapter (relating to transition provisions), there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of. . .the Federal Law Enforcement Training Center of the Department of the Treasury.

- Reference: 6 U.S.C. § 203(4) (2017)
- The Secretary shall maintain in the Department the Federal Law Enforcement Training Centers.
  - Reference: 6 U.S.C. § 464(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The Secretary shall maintain in the Department the Federal Law Enforcement Training Centers, headed by a Director. The Director shall occupy a career-reserved position within the Senior Executive Service.

- Reference: 6 U.S.C. § 464(a)-(b) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The Director is authorized to charge and retain fees that would pay for its actual costs of the training for the following: state, local, tribal, and territorial law enforcement personnel; foreign law enforcement officials, including provision of such training at the International Law Enforcement Academies wherever established; private sector security officers, participants in the Federal Flight Deck Officer program under section 44921 of Title 49, and other appropriate private sector individuals.

- Reference: 6 U.S.C. § 464(d)(8) (2017)
- In order to further the goals and objectives of FLETC, the Director is authorized to. . .accept and use gifts of property, both real and personal, and to accept gifts of services, for purposes that promote the functions of the Director pursuant to subsection (c) and the training responsibilities of the Director under subsection (d); accept reimbursement from

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<sup>245</sup> Department of the Treasury Order No. 217 (1970).

other Federal agencies for the construction or renovation of training and support facilities and the use of equipment and technology on government owned-property; obligate funds in anticipation of reimbursements from agencies receiving training at FLETC, except that total obligations at the end of a fiscal year may not exceed total budgetary resources available at end of such fiscal year.

- Reference: 6 U.S.C. § 464(f) (2017)

*Reporting Requirements:* The Director shall provide to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate, upon request, information on activities undertaken in the previous year pursuant to subparagraph (A) [strategic partnerships with state and local law enforcement].

- Reference: 6 U.S.C. § 464(d)(4)(B) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Transportation Security Administration**

*Date of Creation:* November 19, 2001<sup>246</sup>

*Statute:* 6 U.S.C. § 203; 49 U.S.C. § 114 (2017)

*Authorizing Language:* In accordance with subchapter XII of this chapter (relating to transition provisions), there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of . . .the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto.

- Reference: 6 U.S.C. § 203(2) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* The personnel management system established by the Administrator of the Federal Aviation Administration under section 40122 shall apply to employees of the Transportation Security Administration, or, subject to the requirements of such section, the Under Secretary may make such modifications to the personnel management system with respect to such employees as the Under Secretary considers appropriate, such as adopting aspects of other personnel systems of the Department of Transportation.

- Reference: 49 U.S.C. § 114(n) (2017)

*Limitation on Appointment:* The Under Secretary must be a citizen of the United States and have experience in a field directly related to transportation or security.

- Reference: 49 U.S.C. § 114(b)(2) (2017)
- The Under Secretary may not own stock in or bonds of a transportation or security enterprise or an enterprise that makes equipment that could be used for security purposes.
- Reference: 49 U.S.C. § 114(c) (2017)

*Party Balancing:* None

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<sup>246</sup> Aviation and Transportation Security Act, Pub. L. No. 107-71, 115 Stat. 597 (2001).

*Fixed Terms:* The term of office of an individual appointed as the Under Secretary shall be 5 years.

- Reference: 49 U.S.C. § 114(b)(3) (2017)

*Staggered Terms:* N/A

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The head of the Administration shall be the Under Secretary of Transportation for Security. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 6 U.S.C. § 114(b)(1)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* After December 31, 2005, the Secretary of Homeland Security shall submit the National Strategy for Transportation Security, including the transportation modal security plans and any revisions to the National Transportation Security and the transportation modal security plans, to appropriate congressional committees not less frequently than April 1 of each even-numbered year.

- Reference: 49 U.S.C. § 114(s)(4)(B) (2017)
- Each year, in conjunction with the submission of the budget to Congress under section 1105(a) of title 31, United States Code, the Secretary of Homeland Security shall submit to the appropriate congressional committees an assessment of the progress made on implementing the National Strategy for Transportation Security, including the transportation modal security plans.
  - Reference: 49 U.S.C. § 114(s)(4)(C) (2017)
- At the end of each fiscal year, the Secretary of Homeland Security shall submit to the appropriate congressional committees a written explanation of any Federal transportation security activity that is inconsistent with the National Strategy for Transportation Security, including the amount of funds to be expended for the activity and the number of personnel involved.
  - Reference: 49 U.S.C. § 114(s)(4)(C)(iii) (2017)
- Not later than 150 days after the date of the enactment of this subsection, and annually thereafter, the Secretary shall submit to the appropriate congressional committees, a report containing the [Transportation Security Information Sharing] Plan.
  - Reference: 49 U.S.C. § 114(u)(6)(A) (2017)

*Review Commissions:* Any regulation or security directive issued under this paragraph [emergency procedures] shall be subject to review by the Transportation Security Oversight Board established under section 115. Any regulation or security directive issued under this paragraph shall remain effective for a period of not to exceed 90 days unless ratified or disapproved by the Board or rescinded by the Under Secretary.

- Reference: 49 U.S.C. § 114(l)(2)(B) (2017)

*Advisory Commissions:* In consultation with the Transportation Security Oversight Board, the Under Secretary shall [establish procedures and enter into memoranda of understanding for management of security information].

- Reference: 49 U.S.C. § 114(h) (2017)

*Action Require Outside Approval:* Any regulation or security directive issued under this paragraph [emergency procedures] shall be subject to review by the Transportation Security Oversight Board established under section 115. Any regulation or security directive issued under this paragraph shall remain effective for a period of not to exceed 90 days unless ratified or disapproved by the Board or rescinded by the Under Secretary.

- Reference: 49 U.S.C. § 114(l)(2)(B) (2017)
- The Under Secretary shall not take an aviation security action under this title if the Administrator of the Federal Aviation Administration notifies the Under Secretary that the action could adversely affect the airworthiness of an aircraft. Notwithstanding subparagraph (A), the Under Secretary may take such an action after receiving a notification concerning the action from the Administrator under subparagraph (A), if the Secretary of Transportation subsequently approves the action.
- Reference: 49 U.S.C. § 114(l)(4) (2017)

*Legislative Veto:* None

*Adjudication:* None

### **United States Citizenship and Immigration Services**

*Date of Creation:* November 25, 2002<sup>247</sup>

*Statute:* 6 U.S.C. §§ 271-279 (2017)

*Authorizing Language:* There shall be in the Department a bureau to be known as the Bureau of Citizenship and Immigration Services.

- Reference: 6 U.S.C. § 271(a)(1) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* The head of the Bureau of Citizenship and Immigration Services shall be the Director of the Bureau of Citizenship and Immigration Services who . . . shall have a minimum of 5 years management experience.

- Reference: 6 U.S.C. § 271(a)(2)(B) (2017)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The head of the Bureau of Citizenship and Immigration Services shall be the Director of the Bureau of Citizenship and Immigration Services.

- Reference: 6 U.S.C. § 271(a)(2) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

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<sup>247</sup> Homeland Security Act of 2002, Pub. L No. 107-296, 116 Stat. 2135 (2002).

*Review Commissions:* None

*Advisory Commissions:* The Secretary shall establish, not later than 60 days after the effective date of this chapter, an advisory committee (in this section referred to as the Technology Advisory Committee) to assist the Secretary in establishing the tracking system under subsection (a) and conducting the study under subsection (b) of this section [online filings under the Immigration and Nationality Act]

- Reference: 6 U.S.C. § 278(c) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **United States Coast Guard**

*Date of Creation:* August 4, 1790<sup>248</sup>

*Statute:* 6 U.S.C. § 468; 14 U.S.C. §§ 1-2904 (2017)

*Authorizing Language:* The Coast Guard, established January 28, 1915, shall be a military service and a branch of the armed forces of the United States at all times.

- Reference: 14 U.S.C. § 1 (2017)
- The Coast Guard shall be a service in the Department of Homeland Security, except when operating as a service in the Navy.
  - Reference: 14 U.S.C. § 3(a) (2017)
- There are transferred to the Department the authorities, functions, personnel, and assets of the Coast Guard, which shall be maintained as a distinct entity within the Department, including the authorities and functions of the Secretary of Transportation relating thereto.
  - Reference: 6 U.S.C. § 468(b) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* The Commandant shall be appointed from the offices on the active duty promotion list serving above the grade of captain who have completed at least ten years of active service as a commissioned officer in the Coast Guard.

- Reference: 14 U.S.C. § 44 (2017)
- The Vice Commandant shall be selected from offices on the active duty promotion list serving above the grade of captain.
  - Reference: 14 U.S.C. § 47 (2017)
- Except as provided in subparagraph (B), one of the vice admirals designated under paragraph (1)(A) must have at least 10 years experience in vessel inspection, marine casualty investigations, mariner licensing, or an equivalent technical expertise in the design and construction of commercial vessels, with at least 4 years of leadership experience at a staff or unit carrying out marine safety functions.
  - Reference: 14 U.S.C. § 50(a)(3)(A) (2017)
- The President. . . shall appoint the Director of the Coast Guard Reserve, from officers of the Coast Guard who have had at least 10 years of commissioned service; are in a grade above captain; and have been recommended by the Secretary of Homeland Security.

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<sup>248</sup> Revenue Cutter Service authorized. Tariff Act, 1 Stat. 145 (1790). The Revenue Cutter Service merged with the U.S. Life-Saving Service and was renamed the Coast Guard in 1915. Pub. L. No. 239, 38 Stat. 800 (1915).

- Reference: 14 U.S.C. § 53(b) (2017)
- The Chief Acquisition Officer and any flag officer serving in the Acquisition Directorate shall be an acquisition professional with a Level III acquisition certification and must have at least 10 years experience in an acquisition position, of which at least 4 years were spent as the program executive officer; the program manager of a Level 1 or Level 2 acquisition project or program; the deputy program manager of a Level 1 or Level 2 acquisition; the project manager of a Level 1 or Level 2 acquisition; or any other acquisition position of significant responsibility in which the primary duties are supervisory or management duties.
  - Reference: 14 U.S.C. § 56(b) (2017)
- An officer, member, or civilian employee of the Coast Guard assigned as a marine inspector shall have the training, experience, and qualifications equivalent to that required for a similar position at a classification society recognized by the Secretary under section 3316 of title 46 for the type of vessel, system, or equipment that is inspected; marine casualty investigator shall have the training, experience, and qualifications in investigation, marine casualty reconstruction, evidence collection and preservation, human factors, and documentation using best investigation practices by Federal and non-Federal entities; marine safety engineer shall have knowledge, skill, and practical experience in the construction and operation of commercial vessels; judging the character, strength, ability, and safety qualities of such vessels and their equipment; or the qualifications and training of vessel personnel; waterways operations manager shall have knowledge, skill, and practical experience with respect to marine transportation system management; or port and facility safety and security specialist shall have knowledge, skill, and practical experience with respect to the safety, security, and environmental protection responsibilities associated with maritime ports and facilities.
  - Reference: 14 U.S.C. § 57(b) (2017)
- There shall be in each Coast Guard sector a Chief of Prevention who shall be at least a Lieutenant Commander or civilian employee within the grade GS-13 of the General Schedule, and who shall be a marine inspector, qualified to inspect vessels, vessel systems, and equipment commonly found in the sector; and qualified marine casualty investigator, marine safety engineer, waterways operations manager, or port and facility safety and security specialist.
  - Reference: 14 U.S.C. § 57(e) (2017)
- Except for the Commandant of the Coast Guard, any individual adjudicating an appeal or waiver of a decision regarding marine safety, including inspection or manning and threats to the environment, shall be a qualified specialist with the training, experience, and qualifications in marine safety to effectively judge the facts and circumstances involved in the appeal and make a judgment regarding the merits of the appeal or have a senior staff member who meets the requirements of paragraph (1); actively advises the individual adjudicating the appeal; and concurs in writing on the decision on appeal.
  - Reference: 14 U.S.C. § 101 (2017)

*Party Balancing:* N/A

*Fixed Terms:* The President may appoint, by and with the advice and consent of the Senate, one Commandant for a period of four years, who may be reappointed for further periods of four years, who shall act as the Chief of the Coast Guard.

- Reference: 14 U.S.C. § 44 (2017)

- The Director of the Coast Guard Reserve holds office for a term determined by the President, normally two years, but not more than four years. An officer may be removed from the position of Director for cause at any time.
  - Reference: 14 U.S.C. § 53(b) (2017)

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* [The Vice Commandant] shall act as Commandant during the absence or disability of the Commandant or in the event that there is a vacancy in the office of Commandant.

- Reference: 14 U.S.C. § 47 (2017)

*Who is Head of Agency:* The President may appoint, by and with the advice and consent of the Senate, one Commandant. . .who shall act as Chief of the Coast Guard.

- Reference: 14 U.S.C. § 44 (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* Except as provided in paragraph (2) [if the donation would compromise the integrity of the Coast Guard] the Commandant may accept, on behalf of a center, donations used to defray the costs of the center or to enhance the operation of the center.

- Reference: 14 U.S.C. § 58(d) (2017)
- For the purpose of executing the duties and functions of the Coast Guard, the Commandant may: . . .accept as gift or otherwise acquire patrol boats and other small craft, equip, operate, maintain, supply, and repair such patrol boats, other small craft, aircraft, and vehicles, and subject to applicable regulations under subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41 dispose of them.
  - Reference: 14 U.S.C. § 93(a)(8) (2017)
- For the purpose of executing the duties and functions of the Coast Guard, the Commandant may: . . .acquire, accept as gift, maintain, repair, and discontinue aids to navigation, appliances, equipment, and supplies.
  - Reference: 14 U.S.C. § 93(a)(9) (2017)
- For the purpose of executing the duties and functions of the Coast Guard, the Commandant may: . . .rent or lease, under such terms and conditions as are deemed advisable, for a period not exceeding five years, such real property under the control of the Coast Guard as may not be required for immediate use by the Coast Guard, the monies received from any such rental or lease, less amount of expenses incurred (exclusive of governmental personal services), to be deposited in the fund established under section 687 [Coast Guard Housing Fund].
  - Reference: 14 U.S.C. § 93(a)(13) (2017)
- The Commandant may lease submerged lands and tidelands under paragraph (1) only if the lease is for cash exclusively; the lease amount is equal to the fair market value of the use of the leased submerged lands or tidelands for the period during which such lands are leased, as determined by the Commandant; the lease does not provide authority to or commit the Coast Guard to use or support any improvements to such submerged lands

and tidelands, or obtain goods and services from the lessee; and the proceeds from the lease are deposited in the Coast Guard Housing Fund established under section 687.

- Reference: 14 U.S.C. § 93(f) (2017)
- The Secretary shall fund the operation and maintenance of the National Coast Guard Museum with nonappropriated and non-Federal funds to the maximum extent practicable.
  - Reference: 14 U.S.C. § 98(b)(2) (2017)
- The Commandant is authorized to collect and expend fees, established pursuant to this subparagraph [relating to child development services available to members and civilian employees of the Coast Guard], and such fees shall, without further appropriation, remain available until expended for the purpose of providing services, including the compensation of employees and the purchase of consumable and disposable items, at Coast Guard child development centers.
  - Reference: 14 U.S.C. § 552(c)(2)(C) (2017)
- The Commandant may, under regulations prescribed by the Secretary, sell apparatus or equipment manufactured by or in use in the Coast Guard, which is not readily procurable in the open market. The money received from such sale shall be deposited in the Treasury to the credit of the current appropriation from which purchase of similar apparatus or equipment is authorized. If the balance available to the Coast Guard installation under this section at the end of a fiscal year is in excess of \$200,000, the amount of that excess shall be deposited in the general fund of the Treasury as offsetting receipts of the Department in which the Coast Guard is operating and ascribed to Coast Guard activities.
  - Reference: 14 U.S.C. § 641(b); (e) (2017)
- The Commandant may provide for the sale of recyclable materials that the Coast Guard holds. . .proceeds from the sale of recyclable materials at a Coast Guard installation shall be credited to funds available for operations and maintenance at that installation in amounts sufficient to cover operations, maintenance, recycling equipment, and overhead costs for processing recyclable materials at the installation. If, after funds are credited, a balance remains available to a Coast Guard installation and the installation has a qualified recycling program, not more than 50 percent of that balance may be used at the installation for projects for pollution abatement, energy conservation, and occupational safety and health activities. The cost of the project may not be greater than 50 percent of the amount permissible for a minor construction project. The remaining balance available to a Coast Guard installation may be transferred to the Coast Guard Morale, Welfare, and Recreation Program. If the balance available to the Coast Guard installation under this section at the end of a fiscal year is in excess of \$200,000, the amount of that excess shall be deposited in the general fund of the Treasury as offsetting receipts of the Department in which the Coast Guard is operating and ascribed to Coast Guard activities.
  - Reference: 14 U.S.C. § 641(c)-(e) (2017)
- A Coast Guard Supply Fund is authorized. The Secretary may prescribe regulations for designating the classification of materials to be stocked. In these regulations, whenever the fund is extended to include items not previously stocked, or spare parts obtained as part of a procurement under a different account of major items such as vessels or aircraft, whether or not such parts were previously stocked, the Secretary may authorize an increase in the existing capital of the fund by the value of such usable materials transferred thereto from Coast Guard inventories carried in other accounts. Except for

the materials so transferred, the fund shall be charged with the cost of materials purchased or otherwise acquired. The fund shall be credited with the value of materials consumed, issued for use, sold, or otherwise disposed of, such values to be determined on a basis that will approximately cover the cost thereof. Obligations may, without regard to fiscal year limitation be incurred against anticipated reimbursement to the Coast Guard Supply Fund in such amount and for such period, as the Secretary, with approval of the Director of the Office of Management and Budget, may determine to be necessary to maintain stock levels consistently with planned operations for the next year.

- Reference: 14 U.S.C. § 650 (2017)
- The Secretary under such regulations as he may prescribe, may sell to public and commercial vessels and other watercraft, such fuel, supplies and furnish such services as may be required to meet the necessities of the vessel or watercraft if such vessel or watercraft is unable to procure the fuel, supplies, or services from other sources at its present location and to proceed to the nearest port where they may be obtained without endangering the safety of the ship, the health and comfort of its personnel, or the safety condition of the property carried aboard. Sales under this section shall be at such process as the Secretary considers reasonable. Payment will be made on a cash basis or on other basis as will reasonable assure prompt payment. Amounts received from such a sale shall, unless otherwise directed by another provision of law, be credited to the current appropriation concerned and are available for the same purposes as that appropriation.
  - Reference: 14 U.S.C. § 654 (2017)
- The Secretary shall keep account of costs incurred as a result of providing assistance to film producers, not including costs which would otherwise be incurred in Coast Guard operations or training, or shall estimate such costs in advance, and such costs shall be paid to the Secretary by the film producers who request such assistance, on terms determined by the Secretary. The Secretary may waive costs not exceeding \$200 for one production, and may waive other costs related to noncommercial productions which the Secretary determines to be in the public interest. The Secretary shall reimburse the amounts collected under this section to the Coast Guard appropriation account under which the costs were incurred.
  - Reference: 14 U.S.C. § 659(b) (2017)
- Amounts collected by the Secretary for a service or thing of value provided by the Coast Guard shall be deposited in the general fund of the Treasury as proprietary receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities.
  - Reference: 14 U.S.C. § 664(b) (2017)
- On any date after the notification [to Congress] is made under subsection (a), the Administrator of General Services, acting on behalf of the Secretary, may, notwithstanding any other provision of law, sell any real and personal property under the administrative control of the Coast Guard and used for the LORAN-C system, subject to such terms and conditions that the Secretary believes to be necessary to protect government interest and program requirements of the Coast Guard. The proceeds of such sales, less the costs of sale incurred by the General Services Administration, shall be deposited as offsetting collections into the Coast Guard “Environmental Compliance and Restoration” account and, without further appropriation, shall be available until expended for environmental compliance and restoration purposes associated with the LORAN-C system; the costs of securing and maintaining equipment that may be used as a backup to

the Global Positioning System or to meet any other Federal navigation requirement; the demolition of improvements on such real property; and the costs associated with the sale of such real and personal property, including due diligence requirements, necessary environmental remediation, and reimbursement of expenses incurred by the General Services Administration. After the completion of activities described in subparagraph (A), the unexpended balances of such proceeds shall be available for any other environmental compliance and restoration activities of the Coast Guard.

- Reference: 14 U.S.C. § 681 (2017)
- Notwithstanding any other provision of law, the Secretary may convey, at fair market value, real property, owned or under the administrative control of the Coast Guard, for the purpose of expending the proceeds from such conveyance to acquire and construct military family housing and military unaccompanied housing. The conveyance of real property under this section shall be by sale, for cash. The Secretary shall deposit the proceeds from the sale in the Coast Guard Housing Fund established under section 687 of this title, for the purpose of expending such proceeds to acquire and construct military family housing and military unaccompanied housing.
  - Reference: 14 U.S.C. § 685 (2017)
- There is hereby established on the books of the Treasury an account to be known as the Coast Guard Housing Fund. There shall be credited to the Fund the following: Amounts authorized for and appropriated to that Fund; Subject to subsection (e), any amounts that the Secretary transfers, in such amounts as provided in appropriation Acts, to that Fund from amounts authorized and appropriated to the Department of Homeland Security or Coast Guard for the acquisition or construction of military family housing or military unaccompanied housing; Proceeds from the conveyance of property under section 685 of this title for the purpose of carrying out activities under this chapter with respect to military family housing and military unaccompanied housing; monies received under section 93(a)(13); Amounts received under section 672a(b). In such amounts as provided in appropriations Acts, and except as provided in subsection (d), the Secretary may use amounts in the Coast Guard Housing Fund to carry out activities under this chapter with respect to military family housing and military unaccompanied housing. . . Amounts made available under this subsection shall remain available until expended.
  - Reference: 14 U.S.C. § 687 (2017)
- There is established for the Coast Guard an account known as the Coast Guard Environmental Compliance and Restoration Account. All sums appropriated to carry out the Coast Guard's environmental compliance and restoration functions under this chapter or another law shall be credited or transferred to the account and remain available until expended.
  - Reference: 14 U.S.C. § 692 (2017)

*Reporting Requirements:* Before the date on which the Commandant establishes a [National Coast Guard] museum under subsection (a), the Commandant shall provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a plan for constructing, operating, and maintaining such a museum.

- Reference: 14 U.S.C. § 98(c) (2017)
- At least 90 days prior to making a final determination that a waterway, or a portion thereof, is navigable for purposes of the jurisdiction of the Coast Guard, the Commandant

shall provide notification regarding the proposed determination to . . .the Committee on Commerce, Science and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

- Reference: 14 U.S.C. § 103(a)(3) (2017)
- Not later than January 1, 2016, and every 5 years thereafter, the Commandant shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a 5-year strategic plan to guide interagency and international intergovernmental cooperation and coordination for the purpose of improving maritime domain awareness in the Arctic.
  - Reference: 14 U.S.C. § 154(d) (2017)
- The Commandant shall transmit each report [on sexual harassment and sexual violence involving cadets or other Academy personnel for each Academy program year] received by the Commandant under this subsection, together with the Commandant's comments on the report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.
  - Reference: 14 U.S.C. § 200(d)(4) (2017)
- The Secretary shall submit any finding made by the Secretary pursuant to paragraph (2) [relating to improving Coast Guard officer retention] to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.
  - Reference: 14 U.S.C. § 259(c)(3) (2017)
- On the date on which the President submits to Congress a budget for fiscal year 2016 under section 1105 of title 31, on the date on which the President submits to Congress a budget for fiscal year 2019 under such section, and every 4 years thereafter, the Commandant shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an integrated major acquisition mission need statement.
  - Reference: 14 U.S.C. § 569(a) (2017)
- Any safety concerns that have been reported to the Chief Acquisition Officer for an acquisition program or project shall be reported by the Commandant to the appropriate congressional committees at least 90 days before the award of any contract or issuance of any delivery order or task order for low, initial, for full-rate production of the capability of asset concerned if they will remain uncorrected and unmitigated at the time such a contract is awarded or delivery order or task order is issued.
  - Reference: 14 U.S.C. § 573(b)(4) (2017)
- The Commandant shall submit a report to the appropriate congressional committees and the Committee on Homeland Security of the House of Representatives as soon as possible, but not later than 30 days, after the Chief Acquisition Officer of the Coast Guard becomes aware of the breach of an acquisition program baseline for any Level 1 or level 2 acquisition program by a likely cost overrun greater than 15 percent of the acquisition program baseline for that individual capability or asset or a class of capabilities or assets; a likely delay of more than 180 days in the delivery schedule for any individual capability or asset or class of capabilities or assets; or an anticipated failure for any individual capability or asset or class of capabilities or assets to satisfy any key performance threshold or parameter under the acquisition program baseline.
  - Reference: 14 U.S.C. § 575(a) (2017)

- Not later than the date on which the President submits to Congress a budget under section 1105 of title 31 each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report describing each project carried out under paragraph (1), in the most recently concluded fiscal year, for which the amount expended under such paragraph for such project was more than \$1,000,000.
  - Reference: 14 U.S.C. § 656(d)(2) (2017)
- Before January 1 of each year, the Secretary shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that includes a verification of each activity for which a fee or charge is collected under any law stating the amount collected in the prior fiscal year and that the amount spent on that activity in that fiscal year is not less than the amount collected and the amount expected to be collected under any law in the current fiscal year for each activity for which a fee or charge is expected to be collected.
  - Reference: 14 U.S.C. § 664(g) (2017)
- Prior to closure, cessation of operations, or any significant reduction in personnel and use of a Coast Guard air facility that is in operation on or after December 31, 2015, the Secretary shall submit to the Congress a proposal for such closure, cessation, or reduction in operations along with the budget of the President submitted to Congress under section 1105(a) of title 31 for the fiscal year in which the action will be carried out and not later than 7 days after the date a proposal for an air facility is submitted pursuant to subparagraph (A), provide written notice of such proposal to each of the following: Each member of the House of Representatives who represents a district in which the air facility is located; each member of the Senate who represents a State in which the air facility is located; each member of the House of Representatives who represents a district in which assets of the air facility conduct search and rescue operations; each member of the Senate who represents a State in which the assets of the air facility conduct search and rescue operations; the Committee on Appropriations of the House of Representatives; the Committee on Transportation and Infrastructure of the House of Representatives; the Committee on Appropriations of the Senate; the Committee on Commerce, Science, and Transportation of the Senate.
  - Reference: 14 U.S.C. § 676a(b) (2017)
- Not later than March 30, 2016, and every 5 years thereafter, the Commandant shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that includes a list of all real property under the control of the Coast Guard and the location of such property by property type; recommendations for divestiture with respect to any units of such property; and recommendations for consolidating any units of such property including an estimate of the costs or savings associated with each recommended consolidation and a discussion of the impact that such consolidation would have on Coast Guard mission effectiveness.
  - Reference: 14 U.S.C. § 679(c) (2017)
- The Secretary may not carry out activities related to the dismantling or disposal of infrastructure comprising the LORAN-C system until the date on which the Secretary provides to the Committee on Transportation and Infrastructure and the Committee on

Appropriations of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate notice of a determination by the Secretary that such infrastructure is not required to provide a positioning, navigation, and timing system to provide redundant capability in the event the Global Positioning System signals are disrupted.

- Reference: 14 U.S.C. § 681(a) (2017)
- The Secretary shall prepare and submit to Congress, concurrent with the budget submitted pursuant to section 1105 of title 31, a report identifying the contracts or agreements for the conveyance of properties pursuant to this chapter executed during the prior calendar year.
  - Reference: 14 U.S.C. § 688 (2017)
- The Commandant of the Coast Guard shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a prioritized list of projects eligible for environmental compliance and restoration funding for each fiscal year concurrent with the President's budget submission for that fiscal year.
  - Reference: 14 U.S.C. § 693 (2017)
- Not later than 30 days after the date on which the President submits to Congress a budget for a fiscal year pursuant to section 1105 of title 31, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a Coast Guard authorization request with respect to such fiscal year.
  - Reference: 14 U.S.C. § 2901(a) (2017)
- On the date on which the President submits to Congress a budget pursuant to section 1105 of title 31, the Commandant of the Coast Guard shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a capital investment plan for the Coast Guard that identifies for each capital asset for which appropriations are proposed in that budget the proposed appropriations included in the budget; the total estimated cost of completion based on the proposed appropriations included in the budget; projected funding levels for each fiscal year for the next 5 years or until project completion, whichever is earlier; an estimated completion date based on the proposed appropriations included in the budget; and an acquisition program baseline as applicable and a list of each unfunded priority for the Coast Guard.
  - Reference: 14 U.S.C. § 2902(a) (2017)
- In conjunction with the transmittal by the President to Congress of the budget of the United States for fiscal year 2014 and biennially thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the status of all major acquisition programs.
  - Reference: 14 U.S.C. § 2903(a) (2017)
- Not later than 15 days after the end of each fiscal year quarter, the Commandant of the Coast Guard shall submit to the committees of Congress specified in subsection (a) [Senate Commerce, Science, and Transportation and House Transportation and Infrastructure] an updating setting forth a current assessment of the risks associated with all current major acquisition programs.

- Reference: 14 U.S.C. § 2903(f) (2017)
- On the date on which the President submits to the Congress a budget for fiscal year 2017 under section 1105 of title 31, on the date on which the President submits to the Congress a budget for fiscal year 2019 under such section, and every 4 years thereafter, the Commandant shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a manpower requirements plan.
  - Reference: 14 U.S.C. § 2904(a) (2017)

*Review Commissions:* None

*Advisory Commissions:* A Board of Visitors to the Coast Guard Academy is established to review and make recommendations on the operation of the Academy.

- Reference: 14 U.S.C. § 194 (2017)
- The Secretary shall convene a Coast Guard Reserve Policy Board at least annually to consider, recommend, and report to the Secretary on Reserve policy matters.
  - Reference: 14 U.S.C. § 703 (2017)

*Action Require Outside Approval:* In order to promote the safety of life and property on and over the high seas and waters over which the United States has jurisdiction, and to facilitate the preparation and dissemination by the National Oceanic and Atmospheric Administration of the weather reports, forecasts, and warnings essential to the safe and efficient conduct of domestic and international commerce on and over such seas and water as, the Commandant may cooperate with the Administrator, National Oceanic and Atmospheric Administration by procuring, maintaining, and making available, facilities and assistance for observing, investigating, and communicating weather phenomena and for disseminating weather data, forecasts and warnings, the mutually satisfactory terms of such cooperation to be agreed upon and arranged between the Commandant and the Administrator, National Oceanic and Atmospheric Administration.

- Reference: 14 U.S.C. § 147 (2017)
- The President may remove the name of any officer from a list of selectees established under section 271 of this title [Coast Guard officer promotion procedures]. If the Senate does not consent to the appointment of an officer whose name is on a list of selectees established under section 271 of this title, that officer's name shall be removed from this list.
  - Reference: 14 U.S.C. § 272 (2017)
- The Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under paragraph (1). Unless selected for or serving in the grade of admiral or vice admiral or the position of Superintendent of the Coast Guard Academy, or retired under another provision of law, an officer so retained shall be retired on July 1 of the promotion year immediately following the promotion year in which no action is taken to further retain that officer under this paragraph.
  - Reference: 14 U.S.C. § 290(f)(2) (2017)
- The Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under paragraph (1). Unless selected for or serving in the grade of admiral or retired under another provision of law, an officer so retained shall be retired on July 1 of

the promotion year immediately following the promotion year in which no action is taken to further retain that officer under this paragraph.

- Reference: 14 U.S.C. § 290(g)(2) (2017)
- The Secretary is authorized, subject to regulations approved by the President to designate as rental housing such housing as he may determine to be inadequate as public quarters and to lease inadequate housing to members of the Coast Guard for occupancy by them and their dependents.
  - Reference: 14 U.S.C. § 475(b) (2017)
- Obligations may, without regard to fiscal year limitation be incurred against anticipated reimbursement to the Coast Guard Supply Fund in such amount and for such period, as the Secretary, with approval of the Director of the Office of Management and Budget, may determine to be necessary to maintain stock levels consistently with planned operations for the next year.
  - Reference: 14 U.S.C. § 650(b) (2017)

*Legislative Veto:* None

*Adjudication:* None<sup>249</sup>

### **United States Customs and Border Protection**

*Date of Creation:* November 25, 2002<sup>250</sup>

*Statute:* 6 U.S.C. §§ 211-223 (2017)

*Authorizing Language:* There is established in the Department an agency to be known as U.S. Customs and Border Protection.

- Reference: 6 U.S.C. § 211(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* There shall be at the head of the U.S. Customs and Border Protection a Commissioner of U.S. Customs and Border Protection. As an exercise of the rulemaking power of the Senate, any nomination for the Commissioner submitted to the Senate and referred to a committee, shall be referred to the Committee on Finance.<sup>251</sup>

- Reference: 6 U.S.C. § 211(b) (2017)

*OMB Review:* None

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<sup>249</sup> Employs administrative law judges. Association of Administrative Law Judges. “Agencies Employing Administrative Law Judges,” <http://www.aalj.org/agencies-employing-administrative-law-judges> (accessed October 30, 2017).

<sup>250</sup> Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (2002).

<sup>251</sup> In 2016, Congress eliminated statutory language specifying that the Commissioner shall be appointed by the President, by and with the advise and consent of the Senate. Pub. L. No. 114-125 § 802(a) (2016).

*Independent Litigating:* None

*Independent Sources of Funding:* For fiscal year 2012 and thereafter, the U.S. Customs and Border Protection's Advanced Training Center is authorized to charge fees for any service and/or thing of value it provides to Federal Government or non-government entities or individuals, so long as the fees charged do not exceed the full costs associated with the service or thing of value provided: Provided, that notwithstanding 31 U.S.C. 3302(b), fees collected by the Advanced Training Center are to be deposited into a separate account entitled "Advanced Training Center Revolving Fund" and be available, without further appropriations, for necessary expenses of the Advanced Training Center program, and are to remain available until expended.

- Reference: 6 U.S.C. § 222 (2017)

*Reporting Requirements:*<sup>252</sup> Not later than 30 days after February 24, 2016, and annually thereafter, the Executive Assistant Commissioner shall submit to the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate a report on the staffing model for the Office of Field Operations, including information on how many supervisors, front-line U.S. Customs and Border Protection officers, and support personnel are assigned to each Field Office and port of entry.

- Reference: 6 U.S.C. § 211(g)(5)(A) (2017)
- The Inspector General of the Department of Homeland Security shall develop and annually administer, during each of the three calendar years beginning in the calendar year that begins after February 24, 2016, an auditing mechanism to review whether searches of electronic devices at or between United States ports of entry are being conducted in conformity with the standard operating procedures required under subparagraph (A) of paragraph (1) [involving search of information on an electronic device by U.S. Customs and Border Protection personnel]. Such audits shall be submitted to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate.
  - Reference: 6 U.S.C. § 211(k)(5) (2017)
- The standard use of force procedures established pursuant to subparagraph (B) of paragraph (1) [standard use of force by officers and agents of U.S. Customs and Border Protection] shall require in the case of an incident of the use of deadly force by U.S. Customs and Border Protection personnel, the Commissioner to notify the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate and the Commissioner to provide such committees a copy of the evaluation pursuant to subparagraph (D) [involving use of deadly force by an officer or agent of U.S. Customs and Border Protection] of such paragraph not later than 30 days after the completion of such evaluation.
  - Reference: 6 U.S.C. § 211(k)(6) (2017)
- The Commissioner shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of

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<sup>252</sup> The Commissioner shall, on and after February 24, 2016, continue to submit to the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate any report required, on the day before February 24, 2016, to be submitted under any provision of law. 6 U.S.C. § 211(p) (2017)

the Senate an annual report, for each of the three calendar years beginning in the calendar year that begins after February 24, 2016, that reviews whether the use of unmanned aerial systems is being conducted with the standard operating procedures required under subparagraph 9E) of paragraph (1) [command, control, communication, surveillance, and reconnaissance assistance through the use of unmanned aerial systems].

- Reference: 6 U.S.C. § 211(k)(7) (2017)
- The Commissioner shall . . . submit to the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate, for each of the five calendar years beginning in the calendar year that begins after February 24, 2016, a report that includes compilations of all such wait times [at the 20 U.S. airports that support the highest volume of international travel] and a ranking of such United States airports by wait times.
  - Reference: 6 U.S.C. § 211(n)(1)(C) (2017)
- If the Secretary exercises the authority provided under paragraph (1) [to establish other officers or positions of Assistant Commissioners in U.S. Customs and Border Protection], the Secretary shall notify the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate not later than 30 days before exercising such authority.
  - Reference: 6 U.S.C. § 211(o)(2) (2017)
- The Secretary shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate at least 90 days prior to taking any action which would result in any significant reduction in customs revenue services,<sup>253</sup> including hours of operation, provided at any office within the Department or any port of entry; eliminate or relocate any office of the Department which provides customs revenue services; or eliminate any port of entry.
  - Reference: 6 U.S.C. § 217(b) (2017)
- Not later than September 30, 2007, and each 2-year period thereafter, the Commissioner. . . shall submit a report to the Committee on Finance of the Senate, the Committee on Foreign Relations of the Senate, the Committee on the Judiciary of the Senate, the Committee on Ways and Means of the House of Representatives, the Committee on International Relations of the House of Representatives and the Committee on the Judiciary of the House of Representatives, that includes a comprehensive summary of the analyses described in paragraph (1) [relating to methamphetamine and methamphetamine precursor chemicals]; and a description of how the United States Customs and Border Protection utilized the analysis described in paragraph (1) to target shipments presenting a high risk for smuggling or circumvention of the Combat Methamphetamine Epidemic Act of 2005.
  - Reference: 6 U.S.C. § 220(b)(2) (2017)
- The Secretary shall submit to the appropriate congressional committees. . . an annual report containing the metrics required under this section and the data and methodology

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<sup>253</sup> “Customs revenue services” includes services performed by U.S. Customs and Border Protection. 6 U.S.C. § 217(c) (2017) (citing 6 U.S.C. § 215(1)-(6); (8) (2017)).

used to develop such metrics [border security metrics involving U.S. Customs and Border Protection].

- Reference: 6 U.S.C. § 223(g)(1)(A) (2017)
- Not later than 60 days after the end of each fiscal year through fiscal year 2026, the Secretary shall submit to the appropriate congressional committees a “State of the Border” report that provides trends for each metric under this section [border security metrics involving U.S. Customs and Border Protection] for the last ten fiscal years, to the greatest extent possible; provides selected analysis into related aspects of illegal flow rates, including undocumented migrant flows and stock estimation techniques; provides selected analysis into related aspects of legal flow rates; and includes any other information that the Secretary determines appropriate.
  - Reference: 6 U.S.C. § 223(g)(3) (2017)
- Not later than 30 days before updating the metrics pursuant to subparagraph (A) [border security metrics involving U.S. Customs and Border Protection], the Secretary shall notify the appropriate congressional committees of such updates.
  - Reference: 6 U.S.C. § 223(g)(4)(B) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **United States Immigration and Customs Enforcement**

*Date of Creation:* November 25, 2002<sup>254</sup>

*Statute:* 6 U.S.C. §§ 251-257 (2017)

*Authorizing Language:* There shall be in the Department of Homeland Security a bureau to be known as the “Bureau of Border Security.”<sup>255</sup>

- Reference: 6 U.S.C. § 252(a)(1) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* The Assistant Secretary of the Bureau of Border Security. . .shall have a minimum of 5 years professional experience in law enforcement and a minimum of 5 years of management experience.

- Reference: 6 U.S.C. § 252(a)(2)(B) (2017)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

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<sup>254</sup> Homeland Security Act of 2002, Pub. L No. 107-296, 116 Stat. 2135 (2002).

<sup>255</sup> The name of the bureau changed to Bureau of Immigration and Customs Enforcement on March 1, 2003 by Reorganization Plan Modification for the Department of Homeland Security. H.R. DOC. NO. 108-32 (2003).

*Who is Head of Agency:* The head of the Bureau of Border Security shall be the Assistant Secretary of the Bureau of Border Security.

- Reference: 6 U.S.C. § 252(a)(2) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* The Secretary, not later than 1 year after being sworn into office, shall submit to the Committee on Appropriations and the Judiciary of the House of Representatives and of the Senate a report with a plan detailing how the Bureau of Border Security, after the transfer of functions specified under section 251 of this title takes effect, will enforce comprehensively, effectively, and fairly all the enforcement provisions of the Immigration and Nationality Act relating to such functions.

- Reference: 6 U.S.C. § 255(a) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **United States Secret Service**

*Date of Creation:* July 5, 1865

*Statute:* 6 U.S.C. § 381; 18 U.S.C. §§ 3056-3056A

*Authorizing Language:* In accordance with subchapter XII of this chapter, there shall be transferred to the Secretary the functions, personnel, assets, and obligations of the United States Secret Service, which shall be maintained as a distinct entity within the Department, including the functions of the Secretary of the Treasury relating thereto.

- Reference: 6 U.S.C. § 381 (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* Not specified

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None  
*Adjudication:* None

## **DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

*Date of Creation:* September 9, 1965<sup>256</sup>

*Statute:* 42 U.S.C. §§ 3531-3549

*Authorizing Language:* There is hereby established at the seat of government an executive department to be known as the Department of Housing and Urban Development.

- Reference: 42 U.S.C. § 3532(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* There shall be at the head of the Department a Secretary of Housing and Urban Development, who shall be appointed by the President by and with the advice and consent of the Senate.

- Reference: 42 U.S.C. § 3532(a) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as he shall find to be desirable in the interest of economy and efficiency in the Department, including such services as a central supply service for stationary and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its agencies; central messenger, mail, telephone, and other communications services; office space; central services for document reproduction and for graphics and visual aids; and a central library service. In addition to the amounts appropriated to provide capital for said fund, which appropriations are hereby authorized, the fund shall be capitalized by transfer to it of such stock and supplies and equipment on hand or on order as the Secretary shall direct. Such fund shall be reimbursed from available funds of agencies and officers in the Department for which services are performed at rates which will return in full all expenses of operation, including reserves for accrued annual leave and for depreciation of equipment.

- Reference: 42 U.S.C. § 3535(f) (2017)

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<sup>256</sup> Department of Housing and Urban Development Act, 79 Stat. 667, Pub. L. No. 89-174 (1965).

- Notwithstanding any other provision of law the Secretary is authorized to establish fees and charges, chargeable against program, beneficiaries and project participants, which shall be adequate to cover over the long run, costs of inspection, project review and financing service, audit by Federal or federally authorized auditors, and other beneficial rights, privileges, licenses, and services. Such fees and charges heretofore or hereafter collected shall be considered nonadministrative and shall remain available for operating expenses of the Department in providing similar services on a consolidated basis.
  - Reference: 42 U.S.C. § 3535(j) (2017)
- The Secretary is authorized to . . . accept, hold, administer, and utilize gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed upon order of the Secretary. Property accepted pursuant to this paragraph, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest. . . Upon the request of the Secretary, the Secretary of the Treasury may invest and reinvest in securities of the United States or in securities guaranteed as to principal and interest by the United States any moneys contained in the fund provided for in paragraph (1). In come accruing from such securities and from any other property held by the Secretary pursuant to paragraph (1) shall be deposited to the credit of the fund and shall be disbursed upon order of the Secretary.
  - Reference: 42 U.S.C. § 3535(k) (2017)
- There is hereby established in the United States Treasury, pursuant to section 3535(f) of this title, a working capital fund for the Department of Housing and Urban Development: Provided, That amounts transferred to the Fund under this heading shall be available for Federal shared services used by offices and agencies of the Department, and for such portion of any office or agency's printing, records management, space renovation, furniture, or supply services as the Secretary determines shall be derived from centralized sources made available by the Department to all offices and agencies funded through the Fund: Provided further, That of the amounts made available in this title for salaries and expenses under the headings "Executive Offices", "Administrative Support Offices", "Program Office Salaries and Expenses", and "Government National Mortgage Association", the Secretary shall transfer to the Fund such amounts, to remain available until expended, as are necessary to fund services, specified in the first provision, for which the appropriation would otherwise have been available, and may transfer not to exceed an additional \$10,000,000, in aggregate, from all such appropriations, to be merged with the Fund and to remain available until expended for use for any office or agency: Provided further, That amounts in the Fund shall be the only amounts available to each office or agency of the Department for the services, or portion of services, specified in the first proviso: Provided further, that with respect to the Fund, the authorities and conditions under this section shall supplant the authorities and conditions provided under section 3535(f) of this title.
  - Reference: 42 U.S.C. § 3535a (2017)
- The Secretary of Housing and Urban Development is authorized to establish a fund and to transfer to such fund from appropriations or funds available to the Department of Housing and Urban Development, such amounts as may be necessary to provide disaster

assistance for which the Secretary has been requested by the President to make resources available pursuant to the authority of the Disaster Relief and Emergency Assistance Act.

- Reference: 42 U.S.C. § 3539 (2017)

*Reporting Requirements:* The Secretary shall, not later than December 1 of each year, submit to Congress an annual report which shall include a description of his actions during the current year and a projection of his activities during the succeeding years; estimates of the cost of the projected activities for succeeding fiscal years; a statistical report on the conditions of Indian and Alaska Native housing; and recommendations for such legislative, administrative, and other actions, as he deems appropriate.

- Reference: 42 U.S.C. § 3533(e)(2) (2017)
- Notwithstanding any other provision of law, the Secretary shall transmit to the Committee on Banking Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance, and Urban Affairs of the House of Representatives an agenda of all rules or regulations which are under development or review by the Department. Such agenda shall be transmitted to such Committees within 30 days of October 31, 1978, and at least semi-annually thereafter.
  - Reference: 42 U.S.C. § 3535(o)(1) (2017)
- The Secretary shall, as soon as practicable after the end of each calendar year, make a report to the President for submission to the Congress on the activities of the Department during the preceding calendar year.
  - Reference: 42 U.S.C. § 3536 (2017)
- The Secretary of Housing and Urban Development, in consultation with the Secretary of Labor, shall submit a report to the Congress annually that describes any interagency strategies of such Departments that are designed to improve family economic empowerment by linking housing assistance with essential supportive services, such as employment counseling and training, financial education and growth, childcare, transportation, meals, youth recreational activities, and other supportive services; and any actions taken in the preceding year to carry out such strategies and the extent of progress achieved by such actions.
  - Reference: 42 U.S.C. § 3536a (2017)
- The Secretary shall submit semi-annually to the Committees on Appropriations a list of all contracts and task orders issued under such contracts in excess of \$250,000 which were entered into during the prior 6-month period by the Secretary, the Government National Mortgage Association, and the Office of Federal Housing Enterprise Oversight.
  - Reference: 42 U.S.C. § 3548 (2017)
- Notwithstanding any other provision of law, on and after February 20, 2003, the Chief Financial Officer of the Department of Housing and Urban Development shall, in consultation with the Budget Officer, . . .submit final reports on violations [under the Anti-Deficiency Act and all other statutes and regulations related to the obligation and expenditure of funds] to . . .the Congress in accordance with applicable statutes.
  - Reference: 42 U.S.C. § 3549 (2017)

*Review Commissions:* None

*Advisory Commissions:* The Secretary shall appoint an advisory committee to provide advice regarding the carrying out of the functions of the Director [of Housing Counseling].

- Reference: 42 U.S.C. § 3533(g)(4) (2017)

- The Secretary is authorized to appoint. . .such advisory committees as shall be appropriate for the purpose of consultation with and advice to the Department in performance of its functions.

- Reference: 42 U.S.C. § 3535(l) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* The Secretary shall establish standards and procedures governing the imposition of civil money penalties under this subsection [in appropriate information disclosure]. The standards and procedures. . .shall provide for the imposition of a penalty only after the employee has been given an opportunity for a hearing on the record.

- Reference: 42 U.S.C. § 3537a(c)(3)(A) (2017)

- The Secretary shall establish standards and procedures governing the imposition of civil money penalties under this subsection [in appropriate information disclosure]. The standards and procedures. . .shall provide for the imposition of a penalty only after the employee has been given an opportunity for a hearing on the record.

- Reference: 42 U.S.C. § 3545(g)(1) (2017)

### **Center for Faith Based and Community Initiatives**

*Date of Creation:* January 29, 2001<sup>257</sup>

*Statute:* Not established in U.S. Code

### **Federal Housing Administration**

*Date of Creation:* June 27, 1934<sup>258</sup>

*Statute:* 42 U.S.C. §§ 3533-3534 (2017)

*Authorizing Language:* Except as otherwise provided in subsection (b) of this section, there are hereby transferred to and vested in the Secretary all of the functions, powers, and duties of the Housing and Home Finance Agency, of the Federal Housing Administration and the Public Housing Administration in that Agency, and of the heads and other officers and offices of said agencies.

- Reference: 42 U.S.C. § 3534(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

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<sup>257</sup> Exec. Order No. 13,198, 66 Fed. Ref. 8497 (2001).

<sup>258</sup> National Housing Act, Pub. L. No. 479, 48 Stat. 1246 (1934).

*Who is Head of Agency:* There shall be in the Department a Federal Housing Commissioner, who shall be one of the Assistant Secretaries, who shall head a Federal Housing Administration within the Department.

- Reference: 42 U.S.C. § 3533(b) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Government National Mortgage Association**

*Date of Creation:* August 1, 1968<sup>259</sup>

*Statute:* 12 U.S.C. §§ 1716-1723i (2017)

*Authorizing Language:* The purposes of this title include the partition of the Federal National Mortgage Association as heretofore existing into two separate and distinct corporations, each of which shall have continuity and corporate succession as a separated portion of the previously existing corporation. . . The other, to be known as Government National Mortgage Association, will remain in the Government, will retain the assets and liabilities of the previously existing corporation accounted for under sections 1720 and 1721 of this title, and will continue to operate the special assistance functions and management and liquidating functions authorized by such sections 1720 and 1721.

- Reference: 12 U.S.C. § 1716b (2017)
- One of such separated portions shall be a body corporate without capital stock to be known as Government National Mortgage Association, which shall be in the Department of Housing and Urban Development. . . The Association shall have succession until dissolved by Act of Congress.
  - Reference: 12 U.S.C. § 1717(a)(2)(A) (2017)
- All the powers and duties of the Government National Mortgage Association shall be vested in the Secretary of Housing and Urban Development.
  - Reference: 12 U.S.C. § 1723(a)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

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<sup>259</sup> Housing and Urban Development Act, Pub. L. No. 90-448, 82 Stat. 476 (1968).

*Acting Service Rules:* None

*Who is Head of Agency:* There is hereby established in the Department of Housing and Urban Development the position of President, Government National Mortgage Association, who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 12 U.S.C. § 1723(a) (2017)

*OMB Review:* None

*Independent Litigating:* Each of the bodies corporate named in section 1717(a)(2) of this title shall have the power to . . . in its corporate name, sue and be sued, and to complain and defend, in any court of competent jurisdiction, State or Federal.

- Reference: 12 U.S.C. § 1723a(a) (2017)

*Independent Sources of Funding:* For the purposes set forth in section 1716 of this title and subject to the limitations and restrictions of this subchapter, each of the bodies corporate names in subsection (a)(2) of this section is authorized pursuant to commitments or otherwise, to purchase, service, sell, or otherwise deal in any mortgages which are insured under this chapter or Title V of the Housing Act of 1949, or which are insured or guaranteed under the Servicemen's Readjustment Act of 1944 or chapter 37 of Title 38; and to purchase, service, sell or otherwise deal in any loans made or guaranteed under part B of Title VI of the Public Health Service Act; and the corporation is authorized to lend on the security of any such mortgages and to purchase, sell, or otherwise deal in any securities guaranteed by the Association under section 1721(g) of this title.

- Reference: 12 U.S.C. § 1717(b)(1) (2017)
- Notwithstanding any other provision of this chapter or of any other law, the Association is authorized under section 1721 of this title to create, accept, execute, and otherwise administer in all respects such trusts, receiverships, conservatorships, liquidating or other agencies, or other fiduciary and representative undertakings and activities, hereinafter in this subsection called "trusts", as might be appropriate for financing purposes; and in relation thereto the Association may acquire, hold and manage, dispose of, and otherwise deal in any mortgages or other types of obligations in which any department or agency of the United States listed in paragraph (2) of this subsection may have a financial interest. The Association may join in any such undertakings and activities, hereinafter in this subsection called "trusts"; notwithstanding that it is also serving in a fiduciary or representative capacity; and is authorized to guarantee any participations or other instruments, whether evidence of property rights or debt, issued for such financing purposes.
  - Reference: 12 U.S.C. § 1717(c)(1) (2017)
- The Association, as trustee, is authorized to issue and sell beneficial interests or participations under this subsection.
  - Reference: 12 U.S.C. § 1717(c)(5) (2017)
- For the purposes of this section and to assure that, to the maximum extent, and as rapidly as possible, private financing will be substituted for Treasury borrowings otherwise required to carry mortgages held under the aforesaid separate accountability, the Association is authorized to issue, upon the approval of the Secretary of the Treasury, and have outstanding at any one time obligations having such maturities and bearing such rates of interest as may be determined by the Association with the approval of the Secretary, to be redeemable at the option of the Association before maturity in such manner as may be stipulated in such obligations. . . The proceeds of any private financing

effected under this subsection shall be paid to the Secretary of the Treasury in reduction of the indebtedness of the Association to the Secretary of the Treasury under the aforesaid separate accountability. . .The Association is authorized to purchase in the open market any of its obligations outstanding under this subsection at any time and at any price.

- Reference: 12 U.S.C. § 1721(b) (2017)
- Notwithstanding any other provision of law, the Association is authorized, under the aforesaid separate accountability, to make commitments to purchase, and to purchase, service or sell any obligations offered to it by the Secretary of Housing and Urban Development, or any mortgages covering residential property offered to it by any Federal instrumentality, or the head thereof.
  - Reference: 12 U.S.C. § 1721(e) (2017)
- The Association is authorized, upon such terms and conditions as it may deem appropriate, to guarantee the timely payment of principal of and interest on such trust certificates or other securities as shall (i) be issued by the corporation under section 1719(d) of this title, or by any other issuer approved for the purposes of this subsection by the Association, and (ii) be based on and backed by a trust or pool composed of mortgages which are insured under this chapter or which are insured or guaranteed under the Servicemen's Readjustment Act of 1944, title V of the Housing Act of 1949, or chapter 37 of Title 38 or which are guaranteed under Title XIII of the Public Health Service Act or guaranteed under section 1715z-13a of this title. The Association shall collect from the issuer a reasonable fee for any guaranty under this subsection and shall make such charges as it may determine to be reasonable for the analysis of any trust or other security arrangement proposed by the issuer. . .The fees charged for the guaranty of securities or on notes based on or backed by mortgages not referred to in subparagraph (A), as authorized by other provisions of law, shall be set by the Association at a level not more than necessary to create reserves sufficient to meet anticipated claims based upon actuarial analysis, and for no other purpose. . .Notwithstanding subparagraphs (A) through (D), fees charged for the guarantee of, or commitment to guarantee, multiclass securities backed by a trust or pool of securities or notes guaranteed by the Association under this subsection, and other related fees shall be charged by the Association in an amount the Association deems appropriate.
  - Reference: 12 U.S.C. § 1721(g) (2017)
- Each of the bodies corporate named in section 1717(a)(2) of this title shall have the power to. . .sell, for cash or credit, lease, or otherwise dispose of the same [real, personal, or mixed property or any interest therein], at such time and in such manner as and to the extent that it may deem necessary or appropriate.
  - Reference: 12 U.S.C. § 1723a(a)
- Each of the bodies corporate named in section 1717(a)(2) of this title shall have the power to. . .accept gifts or donations of services, or of property, real, personal, or mixed, tangible, or intangible, in aid of any of its purposes.
  - Reference: 12 U.S.C. § 1723a (2017)
- Except as may otherwise be provided in this subchapter, in chapter 91 of Title 31, or in other laws specifically applicable to Government corporations, the Association shall determine the necessity for and the character and amount of its obligations and

expenditures and the manner in which they shall be incurred, allowed, paid, and accounted for.

- Reference: 12 U.S.C. § 1723a(b) (2017)

*Reporting Requirements:* Not less than 90 days before increasing any fee or charge under subparagraph (B) or (C) [for guaranty or notes, issuance of commitments, or miscellaneous administrative fees], the Secretary shall submit to the Congress a certification that such increase is solely for the purpose specified in such subparagraph.

- Reference: 12 U.S.C. § 1721(g)(3)(D) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* For the purposes of this section and to assure that, to the maximum extent, and as rapidly as possible, private financing will be substituted for Treasury borrowings otherwise required to carry mortgages held under the aforesaid separate accountability, the Association is authorized to issue, upon the approval of the Secretary of the Treasury, and have outstanding at any one time obligations having such maturities and bearing such rates of interest as may be determined by the Association with the approval of the Secretary, to be redeemable at the option of the Association before maturity in such manner as may be stipulated in such obligations.

- Reference: 12 U.S.C. § 1721(b) (2017)

*Legislative Veto:* None

*Adjudication:* The Secretary shall establish standards and procedures governing the imposition of civil money penalties under subsection (a) of this section [violations of Association agreements, contracts, or procedures]. The standards and procedures. . . shall provide for the imposition of a penalty only after an issuer or a custodian has been given notice of, and opportunity for, a hearing on the record.

- Reference: 12 U.S.C. § 1723i(c)(2) (2017)

### **Office of Community Planning and Development**

*Date of Creation:* November 30, 1983

*Statute:* Not established in U.S. Code

### **Office of Fair Housing and Equal Opportunity**

*Date of Creation:* 1968

*Statute:* Not established in U.S. Code

### **Office of Field Policy and Management**

*Date of Creation:* Unknown

*Statute:* Not established in U.S. Code

### **Office of Healthy Homes and Lead Hazard Control**

*Date of Creation:* 1991<sup>260</sup>

*Statute:* Not established in U.S. Code

### **Office of Housing Counseling**

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<sup>260</sup> Established as Office of Lead Based Paint Abatement and Poising Prevention.

*Date of Creation:* July 21, 2010<sup>261</sup>

*Statute:* 42 U.S.C. § 3533(g) (2017)

*Authorizing Language:* There is established, in the Department, the Office of Housing Counseling.

- Reference: 42 U.S.C. § 3533(g)(1) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* There is established the position of Director of Housing Counseling.

The Director shall be the head of the Office of Housing Counseling and shall be appointed by, and shall report to, the Secretary. Such position shall be a career-reserved position in the Senior Executive Service.

- Reference: 42 U.S.C. § 3533(g)(2) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* The Secretary shall appoint an advisory committee to provide advice regarding the carrying out of the functions of the Director.

- Reference: 42 U.S.C. § 3533(g)(4) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Office of Public and Indian Housing**

*Date of Creation:* 1937

*Statute:* Not established in U.S. Code

## **DEPARTMENT OF JUSTICE**

*Date of Creation:* June 22, 1870<sup>262</sup>

*Statute:* 28 U.S.C. §§ 501-599b (2017)

*Authorizing Language:* The Department of Justice is an executive department of the United States at the seat of Government.

- Reference: 28 U.S.C. § 501 (2017)

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<sup>261</sup> Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010).

<sup>262</sup> 16 Stat. 162 (1870).

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* All positions in the Federal Bureau of Investigation are excepted from the competitive service, and the incumbents of such positions occupy positions in the excepted service.

- Reference: 28 U.S.C. § 536 (2017)

*Limitation on Appointment:* The President shall appoint in the Department of Justice, by and with the advice and consent of the Senate, a Solicitor General, learned in the law, to assist the Attorney General in the performance of his duties.

- Reference: 28 U.S.C. § 505 (2017)
- Each United States attorney shall reside in the district for which he is appointed, except that these officers of the District of Columbia, the Southern District of New York, and the Eastern District of New York may reside within 20 miles thereof.
  - Reference: 28 U.S.C. § 545(a) (2017)
- Each marshal shall reside within the district for which such marshal is appointed except that the marshal for the District of Columbia, for the Superior Court of the District of Columbia, and for the Southern District of New York may reside within 20 miles of the district for which the marshal is appointed and any marshal appointed for the Northern Mariana Islands who at the same time is serving as marshal in another district may reside in such other district.
  - Reference: 28 U.S.C. § 561(e) (2017)
- Each marshal appointed under this section should have a minimum of 4 years of command-level law enforcement management duties, including personnel, budget, and accountable property issues, in a police department, sheriff's office or Federal law enforcement agency; experience in coordinating with other law enforcement agencies, particularly at the State and local level; college-level academic experience; and experience in or with county, State, and Federal court systems or experience with protection of court personnel, jurors, and witnesses.
  - Reference: 28 U.S.C. § 561(i) (2017)
- A United States marshal or deputy marshal may not practice law in any court of the United States.
  - Reference: 28 U.S.C. § 568 (2017)

*Party Balancing:* N/A

*Fixed Terms:* Each United States attorney shall be appointed for a term of four years.

- Reference: 28 U.S.C. § 541(b) (2017)
- Each marshal shall be appointed for a term of four years. A marshal shall, unless that marshal has been reassigned or been removed by the President, continue to perform the duties of that office after the end of that 4-year term until a successor is appointed and qualifies.
  - Reference: 28 U.S.C. § 561(d) (2017)
- Each United States trustee shall be appointed to a term of five years.
  - Reference: 28 U.S.C. § 581(b) (2017)

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* In case of a vacancy in the office of the Attorney General, or of his absence or disability, the Deputy Attorney General may exercise all the duties of that office. . . When by reason of absence, disability, or vacancy in office, neither the Attorney General nor the Deputy Attorney General is available to exercise the duties of the office of Attorney General, the Associate Attorney General shall act as the Attorney General.

- Reference: 28 U.S.C. § 508 (2017)

*Who is Head of Agency:* The President shall appoint, by and with the advice and consent of the Senate, an Attorney General of the United States. The Attorney General is the head of the Department of Justice.

- Reference: 28 U.S.C. § 503 (2017)

*OMB Review:* None

*Independent Litigating:* None<sup>263</sup>

*Independent Sources of Funding:* There is established in the United States Treasury a special fund to be known as the Department of Justice Assets Forfeiture Fund which shall be available to the Attorney General without fiscal year limitation for the following law enforcement purposes [payment to seize, detain, etc. property; payment of awards for information relating to drug crimes; payment of awards for information relating to a civil or criminal forfeiture involving any Federal agency; payment of valid liens and mortgages; disbursement of property; equipping for law enforcement functions transportation vehicles; purchase of drug evidence; payment of property taxes on forfeited property; payment of overtime salaries. . . There shall be deposited in the Fund all amounts from the forfeiture of property under any law enforced or administered by the Department of Justice, except all proceeds of forfeitures available for use by the Secretary of the Treasury or the Secretary of the Interior pursuant to section 11(d) of the Endangered Species Act or section 6(d) of the Lacey Act Amendments of 1981 or the Postmaster General of the United States pursuant to 39 U.S.C. 2003(b)(7); all amounts representing the Federal equitable share from the forfeiture of property under any Federal State, local or foreign law, for any Federal agency participating in the Fund; all amounts transferred by the Secretary of the Treasury pursuant to section 9705(g)(4)(A) of title 31; and all amounts collected by the United States pursuant to a reimbursement order under paragraph (20) of section 413(q) of the Controlled Substances Act and pursuant to a restitution order under paragraph (1) or (3) of section 413(q) of the Controlled Substances Act for injuries to the United States. Amounts in the Fund, and in any holding account associated with the Fund, that are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations or, or guaranteed by, the United States and all earnings on such investments shall be deposited in the Fund.

- Reference: 28 U.S.C. § 524(c) (2017)
- The Attorney General may accept, hold, administer, and use gifts, devises, and bequests of any property or services for the purpose of aiding or facilitating the work of the Department of Justice. Gifts, devises, and bequests of money, the proceeds of sale or liquidation of any other property accepted hereunder, and any income accruing from any property accepted hereunder shall be deposited in the Treasury in a separate fund and held in trust by the Secretary of the Treasury for the benefit of the Department of Justice

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<sup>263</sup> While the Department of Justice is not specifically granted independent litigating authority in its authorizing statute, we consider DOJ as having independent litigating authority because the Attorney General manages litigation for the United States. 28 U.S.C. § 516 (2017).

and are hereby appropriated, without fiscal year limitation, and shall be disbursed on order of the Attorney General.

- Reference: 28 U.S.C. § 524(d) (2017)
- In the procurement of law books, reference books, and periodicals, the Attorney General may exchange or sell similar items and apply the exchange allowances or proceeds of such sales in whole or in part payment therefor.
  - Reference: 28 U.S.C. § 525 (2017)
- There is hereby authorized to be established a working capital fund for the Department of Justice, which shall be available, without fiscal year limitation, for expenses and equipment necessary for the maintenance and operations of such administrative services as the Attorney General, with the approval of the Office of Management of Budget, determines may be performed more advantageously as central services. The capital of the fund shall consist of the amount of the fair and reasonable value of such inventories, equipment, and other assets and inventories on order pertaining to the services to be carried on by the fund as the Attorney General may transfer to the fund less related liabilities and unpaid obligations together with any appropriations made for the purpose of providing capital. The fund shall be reimbursed or credited with advance payments from applicable appropriations and funds of the Department of Justice, other Federal agencies, and other sources authorized by law for supplies, materials, and services at rates which will recover the expenses of operations including accrual of annual leave and depreciation of plan and equipment of the fund. The fund shall also be credited with other receipts from the sale or exchange of property or in payment for loss or damage to property held by the fund.
  - Reference: 28 U.S.C. § 527 (2017)
- Such individual [standing trustee] shall collect such percentage fee from all payments received by such individual under plans in the cases under chapter 12 or 13 of title 11 for which such individual serves as standing trustee. Such individual shall pay to the United States trustee, and the United States trustee shall deposit in the United States Trustee System Fund any amount by which the percentage for all such cases exceeds such individual's actual compensation for such cases, as adjusted under subparagraph (A) of paragraph (1) plus the actual, necessary expenses incurred by such individual as standing trustee in such cases. Subject to the approve of the Attorney General, any or all of the interest earned from the deposit of payments under plans by such individual may be utilized to pay actual, necessary expense without regard to the percentage limitation contained in subparagraph (d)(1)(B) of this section.
  - Reference: 28 U.S.C. § 586(e)(2) (2017)
- There is hereby established in the Treasury of the United States a special fund to be known as the "United States Trustee System Fund." Monies in the Fund shall be available to the Attorney General without fiscal year limitation in such amounts as may be specified in appropriations Acts for the following purposes in connection with the operation of United States trustees – salaries and related employee benefits; travel and transportation; rental of space; communication, utilities, and miscellaneous computer charges; security investigations and audits; supplies, books, and other materials for legal research; furniture and equipment; miscellaneous services, including those obtained by contract; and printing. For the purpose of recovering the cost of services of the United States Trustee System, there shall be deposited as offsetting collections to the

appropriation “United States Trustee System Fund”, to remain available until expended, the following – 40.46 percent of the fees collected under section 1930(a)(1)(A) of this title; 28.33 percent of the fees collected under section 1930(a)(1)(B) of this title; 48.89 percent of the fees collected under section 1930(a)(3) of this title; one-half of the fees collected under section 1930(a)(4) of this title; one-half of the fees collected under section 1930(a)(5) of this title; 100 percent of the fees collected under section 1930(a)(6) of this title; three-fourths of the fees collected under the last sentence of section 1930(a) of this title; the compensation of trustees received under section 330(d) of title 11 by the clerks of bankruptcy courts; excess fees collected under section 586(e)(2) of this title; interest earned on Fund investment; and fines imposed under section 110(l) of title 11, United States Code. Amounts in the Fund which are not currently needed for the purposes specified in subsection (a) shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

- Reference: 28 U.S.C. § 589a (2017)

*Reporting Requirements:* The Attorney General, by April 1 of each year, shall report to Congress on the business of the Department of Justice for the last preceding fiscal year, and on any other matters pertaining to the Department that he considers proper, including a statement of the several appropriations which are placed under the control of the Department and the amount appropriated; the statistics of crime under the laws of the United States; and a statement of the number of cases involving the United States, civil and criminal, pending during the preceding year in each of the several courts of the United States.

- Reference: 28 U.S.C. § 522(a) (2017)
- The Attorney General shall transmit to Congress. . .not later than 4 months after the end of each fiscal year, detailed reports for the prior fiscal year as follows [reports on the Department of Justice Assets Forfeiture Fund].<sup>264</sup>
  - Reference: 28 U.S.C. § 524(c)(6)(A) (2017)
- The Attorney General shall transmit to Congress. . . not later than 2 months after final issuance, the audited financial statements for each fiscal year for the Fund.
  - Reference: 28 U.S.C. § 524(c)(6)(B) (2017)
- Beginning on June 1, 1979, and at the beginning of each regular session of Congress thereafter, the Attorney General shall report to Congress on the activities and operations of the Public Integrity Section or any other unit of the Department of Justice designated to supervise the investigation and prosecution of any violation of [federal criminal law involving federal employment, lobbying, etc.].
  - Reference: 28 U.S.C. § 529(a) (2017)
- Notwithstanding any provision of law limiting the amount of management or administrative expenses, the Attorney General shall, not later than May 2, 2003, and of every year thereafter, prepare and provide to the Committees on the Judiciary and Appropriations of each House of the Congress using funds available for the underlying programs a report identifying and describing every grant (other than one made to a governmental entity, pursuant to a statutory formula), cooperative agreement, or programmatic services contract that was made, entered into, awarded, or, for which

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<sup>264</sup> The transmittal and publication requirements may be satisfied by notifying the Committees on the Judiciary of the House of Representatives and the Senate when the reports are available electronically. 28 U.S.C. § 524(c)(6)(D)(ii) (2017).

additional or supplemental funds were provided in the immediately preceding fiscal year, by or on behalf of the Office of Justice Programs (including any component or unit thereof, and the Office of Community Oriented Policing Services), and including, without limitation, for each such grant, cooperative agreement, or contract: the term, the dollar amount or value, a description of its specific purpose or purposes, the names of all grantees or parties, the names of each unsuccessful applicant or bidder, and a description of the specific purpose or purposes proposed in each unsuccessful application or bid, and of the reason or reasons for rejection or denial of the same.

- Reference: 28 U.S.C. § 529(b)(1) (2017)
- Notwithstanding any provision of law limiting the amount of management or administrative expenses, the Attorney General shall, not later than May 2, 2003, and of every year thereafter, prepare and provide to the Committees on the Judiciary and Appropriations of each House of the Congress using funds available for the underlying programs. . . a report identifying and reviewing every grant (other than one made to a governmental entity, pursuant to a statutory formula), cooperative agreement, or programmatic services contract made, entered into, awarded, or for which additional or supplemental funds were provided, after October 1, 2002, by or on behalf of the Office of Justice Programs (including any component or unit thereof, and the Office of Community Oriented Policing Services) that was programmatically and financially closed out or that otherwise ended in the immediately preceding fiscal year (or even if not yet closed out, was terminated or otherwise ended in the fiscal year that ended 2 years before the end of such immediately preceding fiscal year), and including, without limitation, for each such grant, cooperative agreement, or contract: a description of how the appropriated funds involved actually were spent, statistics relating to its performance, its specific purpose or purposes, and its effectiveness, and a written declaration by each non-Federal grantee and each non-Federal party to such agreement or to such contract.
  - Reference: 28 U.S.C. § 529(b)(2) (2017)
- The Attorney General shall submit to the Congress a report of any instance in which the Attorney General or any officer of the Department of Justice establishes or implements a formal or informal policy to refrain [from enforcing the law]; determines [to contest a law]; or approves [the settlement or compromise of any action against the United States over \$2,000,000 or by the United States that is likely to exceed 3 years]. For the purposes of paragraph (1), a report shall be considered submitted to the Congress if the report is submitted to the majority leader and minority leader of the Senate; the Speaker, majority leader, and minority leader of the House of Representatives; the chairman and ranking minority member of the Committee on the Judiciary of the House of Representatives and the chairman and ranking minority member of the Committee on the Judiciary of the Senate; and the Senate Legal Counsel and the General Counsel of the House of Representatives.
  - Reference: 28 U.S.C. § 530d(a) (2017)
- The Attorney General shall transmit to the Congress, not later than 120 days after the end of each fiscal year, a detailed report on the amounts deposited in the [United States Trustee System] Fund and a description of expenditures made under this section.
  - Reference: 28 U.S.C. § 589a(d) (2017)
- The Committee on the Judiciary of either House of the Congress, or a majority of majority party members or a majority of all nonmajority party members of either such

committee, may request in writing that the Attorney General apply for the appointment of an independent counsel. Not later than 30 days after the receipt of a request under paragraph (1), the Attorney General shall submit, to the committee making the request, or to the committee on which the persons making the request serve, a report on whether the attorney general has begun or will begin a preliminary investigation under this chapter of the matters with respect to which the request is made. . .At the same time as any notification, application, or any other document, material, or memorandum is supplied to the division of the court pursuant to this section with respect to a preliminary investigation of any matter with respect to which a request is made under paragraph (1), such notification, application, or other document, material, or memorandum shall be supplied to the committee making the request, or to the committee on which the persons making the request serve. If no application for the appointment of an independent counsel if made to the division of the court under this section pursuant to such a preliminary investigation, the Attorney General shall submit a report to that committee stating the reasons why such application was not made, addressing each matter with respect to which the congressional request was made.

- Reference: 28 U.S.C. § 592(g) (2017)
- The Department of Justice shall pay all costs relating to the establishment and operation of any office of independent counsel. The Attorney General shall submit to the Congress, not later than 30 days after the end of each fiscal year, a report on the amounts paid during that fiscal year for expenses of investigations and prosecutions by independent counsel.
  - Reference: 28 U.S.C. § 594(d)(2) (2017)
- Within 15 days after receiving an inquiry about a particular case under this chapter, which is a matter of public knowledge, from a committee of the Congress with jurisdiction over this chapter, the Attorney General shall provide the following information to that committee with respect to that case: when the information about the case was received; whether a preliminary investigation is being conducted, and if so, the date it began; whether an application for the appointment of an independent counsel or a notification that further investigation is not warranted has been filed with the division of the court, and if so, the date of such filing.
  - Reference: 28 U.S.C. § 595(b) (2017)
- If an independent counsel is removed from office, the Attorney General shall promptly submit to the division of the court and the Committees on the Judiciary of the Senate and the House of Representatives a report specifying the facts found and the ultimate grounds for such removal.
  - Reference: 28 U.S.C. § 596(a)(2) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* There is hereby authorized to be established a working capital fund for the Department of Justice, which shall be available, without fiscal year limitation, for expenses and equipment necessary for the maintenance and operations of such administrative services as the Attorney General, with the approval of the Office of Management of Budget, determines may be performed more advantageously as central services.

- Reference: 28 U.S.C. § 527 (2017)

*Legislative Veto:* None  
*Adjudication:*<sup>265</sup> None

### **Bureau of Alcohol, Tobacco, Firearms, and Explosives**

*Date of Creation:* July 1, 1972<sup>266</sup>

*Statute:* 28 U.S.C. §§ 599A-599B (2017)

*Authorizing Language:* There is established within the Department of Justice under the general authority of the Attorney General the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

- Reference: 28 U.S.C. § 599A(a)(1) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* There shall be at the head of the Bureau a Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives. The Director shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 28 U.S.C. § 599A(a)(2) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Bureau of Prisons**

*Date of Creation:* May 14, 1930<sup>267</sup>

*Statute:* 18 U.S.C. §§ 4041-4049 (2017)

*Authorizing Language:* None

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

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<sup>265</sup> Employs administrative law judges. Association of Administrative Law Judges. “Agencies Employing Administrative Law Judges,” <http://www.aalj.org/agencies-employing-administrative-law-judges> (accessed October 30, 2017).

<sup>266</sup> Treasury Department Order 221 (1972).

<sup>267</sup> Pub. L. No. 218, 46 Stat. 325 (1930).

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The Bureau of Prisons shall be in charge of a director appointed by and serving directly under the Attorney General.

- Reference: 18 U.S.C. § 4041 (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The Attorney General may accept gifts or bequests of money for credit to the “Commissary Funds, Federal Prisons.”

- Reference: 18 U.S.C. § 4043 (2017)
- The Attorney General may, in accordance with rules prescribed by the Attorney General, accept in the name of the Department of Justice any form of devise, bequest, gift or donation of money or property for use by the Bureau of Prisons. . . The Attorney General may take all appropriate steps to secure possession of such property and may sell, assign, transfer, or convey such property other than money.
- Reference: 18 U.S.C. § 4044 (2017)

*Reporting Requirements:* The Attorney General shall prepare and transmit to the Congress, by March 1 of each year, a prison impact assessment reflecting the cumulative effect of all relevant changes in the law taking effect during the preceding calendar year.

- Reference: 18 U.S.C. § 4047(c) (2017)
- Not later than 1 year after the date of the enactment of the Federal Prisoner Health Care Copayment Act of 2000, and annually thereafter, the Director shall transmit to Congress a report, which shall include a description of the amounts collected under this section during the preceding 12-month period; an analysis of the effects of the implementation of this section, if any, on the nature and extent of health care visits by prisoners; an itemization of the cost of implementing and administering the program; a description of current inmate health status indicators as compared to the year prior to enactment; and a description of the quality of health care services provided to inmates during the preceding 12-month period, as compared with the quality of those services provided during the 12-month period ending on the date of enactment of such Act.
- Reference: 18 U.S.C. § 4048(k) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **Civil Rights Division**

*Date of Creation:* December 9, 1957<sup>268</sup>

*Statute:* Not established in U.S. Code

### **Community Relations Service**

*Date of Creation:* Jul 2, 1964<sup>269</sup>

*Statute:* 42 U.S.C. §§ 2000g-2000g-3 (2017)

*Authorizing Language:* There is hereby established in and as part of the Department of Commerce<sup>270</sup> a Community Relations Service.

- Reference: 42 U.S.C. § 2000g (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* [The] Director. . .shall be appointed. . .for a term of four years.

- Reference: 42 U.S.C. § 2000g (2017)

*Staggered Terms:* N/A

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* [The Service] shall be headed by a Director who shall be appointed by the President with the advice and consent of the Senate.

- Reference: 42 U.S.C. § 2000g (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* The Director shall, on or before January 31 of each year, submit to the Congress a report on the activities of the Service during the preceding fiscal year.

- Reference: 42 U.S.C. § 2000g-3 (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Drug Enforcement Administration**

*Date of Creation:* July 1, 1973<sup>271</sup>

*Statute:* Reorganization Plan No. 2 of 1973

*Authorizing Language:* There is established in the Department of Justice an agency which shall be known as the Drug Enforcement Administration.

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<sup>268</sup> Order of the Attorney General, Order No. 155-57 (1957).

<sup>269</sup> Civil Rights act of 1964, Pub. L. No. 88-352, 78 Stat. 241 (1964).

<sup>270</sup> Reorganization Plan No. 1 of 1966 § 1 (April 22, 1966) 31 Fed. Reg. 6187, 80 Stat. 1607 transferred the service to the Department of Justice.

<sup>271</sup> Reorganization Plan No. 2 of 1973.

- Reference: Reorg. Plan No. 2 of 1973 § 4

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* The Deputy Administrator or such other official of the Department of Justice as the Attorney General shall from time to time designate shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

- Reference: Reorg. Plan No. 2 of 1973 § 5(c)

*Who is Head of Agency:* There shall be at the head of the Administration the Administrator of Drug Enforcement. The Administrator shall be appointed by the President by and with the advice and consent of the Senate.

- Reference: Reorg. Plan No. 2 of 1973 § 5(a)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:*<sup>272</sup> None

### **Executive Office for Immigration Review**

*Date of Creation:* January 9, 1983

*Statute:* 6 U.S.C. §§ 521-522 (2017)

*Authorizing Language:* There is in the Department of Justice the Executive Office for Immigration Review, which shall be subject to the direction and regulation of the Attorney General under section 1103(g) of Title 8 [granting the Attorney General authorities and functions of the Executive Office for Immigration Review].

- Reference: 6 U.S.C. § 521 (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

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<sup>272</sup> Employs administrative law judges. Association of Administrative Law Judges. “Agencies Employing Administrative Law Judges,” <http://www.aalj.org/agencies-employing-administrative-law-judges> (accessed October 30, 2017).

*Fixed Terms:* None  
*Staggered Terms:* N/A  
*For Cause:* N/A  
*Serve President:* None  
*Continuation until Replacement:* None  
*Acting Service Rules:* None  
*Who is Head of Agency:* None  
*OMB Review:* None  
*Independent Litigating:* None  
*Independent Sources of Funding:* None  
*Reporting Requirements:* None  
*Review Commissions:* None  
*Advisory Commissions:* None  
*Action Require Outside Approval:* None  
*Legislative Veto:* None  
*Adjudication:*<sup>273</sup> None

### **Executive Office for United States Attorneys**

*Date of Creation:* April 6, 1953<sup>274</sup>  
*Statute:* Not established in U.S. Code

### **Executive Office for United States Trustees**

*Date of Creation:* November 8, 1978<sup>275</sup>  
*Statute:* Not established in U.S. Code

### **Federal Bureau of Investigation**

*Date of Creation:* July 26, 1908<sup>276</sup>  
*Statute:* 28 U.S.C. §§ 531-540c (2017)  
*Authorizing Language:* The Federal Bureau of Investigation is in the Department of Justice.

- Reference: 28 U.S.C. § 531 (2017)

*Commissioners/Board Members:* None  
*Quorum Rules:* N/A  
*Agency Specific Personnel:* All positions in the Federal Bureau of Investigation are excepted from the competitive service, and the incumbents of such positions occupy positions in the excepted service.

- Reference: 28 U.S.C. § 536 (2017)
- The rates of basic pay, salary schedule, pay provisions, and benefits for members of the FBI police shall be equivalent to the rates of basic pay, salary schedule, pay provisions, and benefits applicable to members of the United States Secret Service Uniformed

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<sup>273</sup> Employs administrative law judges. Association of Administrative Law Judges. “Agencies Employing Administrative Law Judges,” <http://www.aalj.org/agencies-employing-administrative-law-judges> (accessed October 30, 2017).

<sup>274</sup> Order of the Attorney General No. 8-53 (1953).

<sup>275</sup> Date the Trustee Program established. Bankruptcy Reform Act of 1978, Pub. L. No. 95-598, 92 Stat. 2549 (1978).

<sup>276</sup> Order of the Attorney General (July 26, 1908) (establishing a “force of special agents”).

Division. Pay and benefits for the FBI police under subparagraph (A) shall be established by regulation, shall apply with respect to pay periods beginning after January 1, 2003; and shall not result in any decrease in the rates of pay or benefits of any individual.

- Reference: 28 U.S.C. § 540c (2017)

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* The term of service of the Director of the Federal Bureau of Investigation shall be ten years. A director may not serve more than one ten-year term.

- Reference: 28 U.S.C. § 532 note (2017)

*Staggered Terms:* N/A

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The Attorney General may appoint a Director of the Federal Bureau of Investigation. The Director of the Federal Bureau of Investigation is the head of the Federal Bureau of Investigation.

- Reference: 28 U.S.C. § 532 (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Foreign Claims Settlement Commission**

*Date of Creation:* July 1, 1954<sup>277</sup>

*Statute:* 22 U.S.C. §§ 1621-1645o (2017); Reorg. Plan No. 1 of 1954, 19 Fed. Reg. 3985, 68 Stat. 1279

*Authorizing Language:* There is hereby established the Foreign Claims Settlement Commission of the United States.

- Reference: Reorg Plan No. 1 of 1954 § 1
- The Foreign Claims Settlement Commission of the United States, established under Reorganization Plan Numbered 1 of 1954, is hereby transferred to the Department of Justice as a separate agency within that Department.
  - Reference: 22 U.S.C. § 1622a (2017)

*Commissioners/Board Members:* The Commission shall be composed of a Chairman and two members. The Chairman shall be appointed by the President, by and with the advice and consent of the Senate. . . The other members of the Commission shall be appointed by the President, by and with the advice and consent of the Senate.

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<sup>277</sup> Reorganization Plan No. 1 of 1954.

- Reference: 22 U.S.C. § 1622c(a)-(b) (2017)

*Quorum Rules:* Two members of the Commission shall constitute a quorum for the transaction of the business of the Commission.

- Reference: Reorg Plan No. 1 of 1954 § 1

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* None

*Fixed Terms:* The President may fix. . .the terms of office of its members under this subchapter.

- Reference: 22 U.S.C. § 1622(c) (2017)
- The Chairman shall be appointed. . .to serve on a full-time basis for a term of three years.
  - Reference: 22 U.S.C. § 1622c(a) (2017)
- The terms of Office of the Chairman and members of the Commission shall be for three years.
  - Reference: 22 U.S.C. § 1622c(c) (2017)

*Staggered Terms:* The terms of Office of the Chairman and members of the Commission shall be for three years, except the Chairman and members first appointed after the enactment of this subsection shall be appointed to terms ending respectively September 30, 1982, September 30, 1981, and September 30, 1980.

- Reference: 22 U.S.C. § 1622c(c) (2017)

*For Cause:* Any member of the Commission may be removed by the Secretary of State, upon notice and hearing, for neglect of duty, or malfeasance in office, but for no other cause.

- Reference: 22 U.S.C. § 1622(c) (2017)

*Serve President:* None

*Continuation until Replacement:* The incumbent of such office [member of Commission] may continue to serve until a successor takes office.

- Reference: 22 U.S.C. § 1622c(c) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* The Chairman shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 22 U.S.C. § 1622c(a) (2017)

*OMB Review:* The Chairman shall prepare the budget requests, authorization documents, and legislative proposals for the Commission within procedures established by the Department of Justice, and the Attorney General shall submit these items to the Director of the Office of Management and Budget as proposed by the Chairman.

- Reference: 22 U.S.C. § 1622f (2017)

*Independent Litigating:* None

*Independent Sources of Funding:* There are created in the Treasury of the United States (1) a special fund to be known as the Yugoslav Claims Fund and (2) such other special funds as may, in the discretion of the Secretary of the Treasury, be required, each to be a claims fund to be known by the name of the foreign government which has entered into a settlement agreement with the Government of the United States as described in subsection (a) of section 1626 of this title [claims before the Foreign Claims Settlement Commission]. . .All payments authorized under section 1626 of this title shall be disbursed from the proper fund, as the case may be, and all amounts covered into the credit of the aforesaid funds are permanently appropriated for the making of the payments authorized by section 1626 of this title. . .The Secretary of the Treasury is

authorized and directed to invest the amounts held respectively in the “special funds” established by this section in public debt securities with maturities suitable for the needs of the separate accounts and bearing interest at rates determined by the Secretary, taking into consideration the average market yield on outstanding marketable obligations of the United States of comparably maturities. The interest earned on the amounts in each special fund shall be used to make payments, in accordance with subsection (c) of this section, on awards payable from that special fund.

- Reference: 22 U.S.C. 1627 (2017)
- There are created in the Treasury of the United States five funds to be known as the Bulgarian Claims Fund, the Hungarian Claims Fund, the Rumanian Claims Fund, the Italian Claims Fund, and the Soviet Claims Fund.
  - Reference: 22 U.S.C. § 1641a (2017)
- All payments authorized under this subchapter [claims against Bulgaria, Hungary, Rumania, Italy, and the Soviet Union] shall be disbursed exclusively from the claims fund attributable to the country with respect to which the claims are allowed pursuant to this subchapter. All amounts covered into the Treasury to the credit of the claims funds created by section 1641a of this title are hereby permanently appropriated from the making of the payments authorized under this subchapter.
  - Reference: 22 U.S.C. § 1641h (2017)
- There is hereby created in the Treasury of the United States a fund to be designated the Czechoslovakian Claims Fund, for the payment of unsatisfied claims of nationals of the United States against Czechoslovakia as authorized in this subchapter.
  - Reference: 22 U.S.C. § 1642a(b) (2017)
- The Secretary of the Treasury is hereby authorized to establish in the Treasury of the United States a fund to be designated the Claims fund as defined under section 1644a(5) of this title for the payment of unsatisfied claims of nationals of the United States against the German Democratic Republic as authorized in this subchapter.
  - Reference: 22 U.S.C. § 1644g(a) (2017)
- The Secretary of the Treasury may establish in the Treasury of the United States the Claims Fund for the payment of unsatisfied claims of nationals of the United States against Vietnam, as authorized by this subchapter.
  - Reference: 22 U.S.C. § 1645h(a) (2017)

*Reporting Requirements:* Not later than six months after its organization, and every six months thereafter, the Commission shall make a report, through the Secretary of State, to the Congress concerning its operations under this subchapter.

- Reference: 22 U.S.C. § 1622

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Office of Justice Programs**

*Date of Creation:* October 12, 1984<sup>278</sup>

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<sup>278</sup> Pub. L. No. 98-473, 98 Stat. 1837 (1984).

*Statute:* 34 U.S.C. §§ 10101-10111 (2017)

*Authorizing Language:* There is hereby established an Office of Justice Programs within the Department of Justice under the general authority of the Attorney General.

- Reference: 34 U.S.C. § 10101 (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The Office of Justice Programs shall be headed by an Assistant Attorney General appointed by the President, by and with the advice and consent of the Senate.

- Reference: 34 U.S.C. § 10101 (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* The Assistant Attorney General shall submit an annual report to the President and to the Congress not later than March 31 of each year.

- Reference: 34 U.S.C. § 10102(b) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Office on Violence Against Women**

*Date of Creation:* September 13, 1994<sup>279</sup>

*Statute:* 34 U.S.C. §§ 10441-10453 (2017)

*Authorizing Language:* There is hereby established within the Department of Justice, under the general authority of the Attorney General, a Violence Against Women Office.

- Reference: 34 U.S.C. § 10442(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Term Length:* N/A

*Staggered Terms:* N/A

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<sup>279</sup> Violence Against Women Act of 1994, Pub. L .No. 103-322, 108 Stat. 1796 (1994).

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* In the case of vacancy, the President may designate an officer or employee who shall act as Director during the vacancy.

- Reference: 34 U.S.C. § 10443(c) (2017)

*Who is Head of Agency:* The Office shall be . . .headed by a Director, who shall report to the Attorney General and serve as Counsel to the Attorney General on the subject of violence against women, and who shall have final authority over all grants, cooperative agreements, and contracts awarded by the Office.

- Reference: 34 U.S.C. § 10442(b) (2017)
- The President, by and with the advice and consent of the Senate, shall appoint a Director for the Violence Against Women Office. . .to be responsible under the general authority of the Attorney General, for the administration, coordination, and implementation of the programs and activities of the Office.
  - Reference: 34 U.S.C. § 10443(a) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Reporting Committees:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **United States Marshals Service**

*Date of Creation:* September 24, 1789<sup>280</sup>

*Statute:* 28 U.S.C. §§ 561-569 (2017)

*Authorizing Language:* There is hereby established a United States Marshals Service as a bureau within the Department of Justice under the authority and direction of the Attorney General.

- Reference: 28 U.S.C. § 561(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* Each marshal appointed under this section should have a minimum of 4 years of command-level law enforcement management duties, including personnel, budget, and accountable property issues, in a police department, sheriff's office or Federal law enforcement agency; experience in coordinating with other law enforcement agencies, particularly at the State and local level; college-level academic experience; and experience in or with county, State, and Federal court systems or experience with protection of court personnel, jurors, and witnesses.

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<sup>280</sup> 1 Stat. 73 (1789).

- Reference: 28 U.S.C. § 561(i) (2017)
- A United States marshal or deputy marshal may not practice law in any court of the United States.
- Reference: 28 U.S.C. § 568 (2017)

*Party Balancing:* N/A

*Fixed Terms:* Each marshal shall be appointed for a term of four years. A marshal shall, unless that marshal has been reassigned or been removed by the President, continue to perform the duties of that office after the end of that 4-year term until a successor is appointed and qualifies.

- Reference: 28 U.S.C. § 561(d) (2017)

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* There shall be at the head of the United States Marshals Service a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 28 U.S.C. § 561(a) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **United States Parole Commission**

*Date of Creation:* May 13, 1930<sup>281</sup>

*Statute:* 18 U.S.C. §§ 4201-4218 (2017)<sup>282</sup>

*Authorizing Language:* There is hereby established, as an independent agency in the Department of Justice, a United States Parole Commission.

- Reference: 18 U.S.C. § 4202 (2017)

*Commissioners/Board Members:* [The] United States Parole Commission. . .shall be comprised of nine members appointed by the President, by and with the advice and consent of the Senate.

- Reference: 18 U.S.C. § 4202 (2017)

*Quorum Rules:* None

*Agency Specific Personnel:* None

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<sup>281</sup> Established as the Board of Parole. Pub. L. No. 202, 46 Stat. 272 (1930).

<sup>282</sup> In 1984, Congress repealed the statutory provisions that established the Parole Commission, to be effective November 1, 1987. Pub. L. No. 98-473, Title II § 235, 98 Stat. 2031 (1984). However, since that time Congress has continuously extended the period that the provisions remain in effect. This most recently occurred in 2013, when Congress extended the period to 2018. Pub. L. No. 113-47 § 2, 127 Stat. 572 (2013).

*Limitation on Appointment:* None

*Party Balancing:* None

*Fixed Terms:* The term of office of a Commissioner shall be six years.

- Reference: 18 U.S.C. § 4202 (2017)

*Staggered Terms:* None

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* Upon the expiration of a term of office of a Commissioner, the Commissioner shall continue to act until a successor has been appointed and qualified, except that no Commissioner may serve in excess of 12 years.

- Reference: 18 U.S.C. § 4202 (2017)

*Acting Service Rules:* The Chairman shall . . . designate one [Commissioner]. . . to serve as vice chairman of the Commission (who shall act as Chairman of the Commission in the absence or disability of the Chairman or in the event of the vacancy of the Chairmanship).

- Reference: 18 U.S.C. § 4204(a)(5) (2017)

*Who is Head of Agency:* The President shall designate from among the Commissioners one to serve as Chairman.

- Reference: 18 U.S.C. § 4202 (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* Hearings held for revocation of parole shall be conducted by the Commission in accordance with the following procedures-notice to the parolee of the conditions of parole alleged to have been violated and the time, place, and purposes of the scheduled hearing, opportunity for the parolee to be represented by an attorney or, if he so chooses, a representative as provided by rules and regulations, unless the parolee knowingly and intelligently waives such representation, opportunity for the parolee to appear and testimony, and present witnesses and relevant evidence on his own behalf, and opportunity for the parolee to be apprised of the evidence against him, and if he so requests, to confront and examine adverse witnesses, unless the Commission specifically finds substantial reason for not so allowing.

- Reference: 18 U.S.C. § 4214(a)(2)

## **DEPARTMENT OF LABOR**

*Date of Creation:* March 4, 1913<sup>283</sup>

*Statute:* 29 U.S.C. §§ 551-568 (2017)

*Authorizing Language:* There shall be an executive department in the Government to be called the Department of Labor.

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<sup>283</sup> Pub. L. No. 425, 37 Stat. 736. (1913).

- Reference: 29 U.S.C. § 551 (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* The Deputy Secretary shall (1) in case of the death, resignation, or removal from office of the Secretary, perform the duties of the Secretary until a successor is appointed, and (2) in case of the absence or sickness of the Secretary, perform the duties of the Secretary until such absence or sickness shall terminate.

- Reference: 29 U.S.C. § 552 (2017)

*Who is Head of Agency:* A Secretary of Labor, who shall be the head thereof, to be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 29 U.S.C. § 551 (2017)

*OMB Review:* None

*Independent Litigating:* None<sup>284</sup>

*Independent Sources of Funding:* There is established a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of (1) a central reproduction service; (2) a central visual exhibit service; (3) a central supply service for supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department; (4) a central tabulating service; (5) telephone, mail and messenger services; (6) a central accounting and payroll service; and (7) a central laborers' service: Provided, That any stocks of supplies and equipment on hand or on order shall be used to capitalize such fund: Provided further, That such fund shall be reimbursed in advance from funds available to bureaus, officers, and agencies for which such centralized services are performed at rates which will return in full all expenses of operation, including reserves for accrued annual leave and depreciation of equipment: Provided further, That the Secretary of Labor may transfer annually an amount not to exceed \$3,000,000 from unobligated balances in the Department's salaries and expenses accounts, to the unobligated balance of the Working Capital Fund, to be merged with such Fund and used for the acquisition of capital equipment and the improvement of financial management, information technology, and other support systems, and to remain available until expended: Provided further, That the unobligated balance of the Fund shall not exceed \$20,000,000.

- Reference: 29 U.S.C. § 563 (2017)
- The Working Capital Fund of the Department of Labor shall be available on and after March 5, 1970, for expenses necessary for personnel functions in regional administrative offices.

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<sup>284</sup> Except in litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Department in any civil litigation relating to mine safety and health, but all such litigation shall be subject to the direction and control of the Attorney General. 30 U.S.C. § 822 (2017).

- Reference: 29 U.S.C. § 694 (2017)
- The Secretary of Labor is authorized to accept, in the name of the Department of Labor, and employ or dispose of in furtherance of authorized activities of the Department of Labor, during the fiscal year ending in September 30, 1995, and each fiscal year thereafter, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise.
  - Reference: 29 U.S.C. § 568 (2017)

*Reporting Requirements:* The Secretary of Labor shall annually, at the close of each fiscal year, prepare and submit to Congress the financial statements of the Department that have been audited.

- Reference: 29 U.S.C. § 560 (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:*<sup>285</sup> None

### **Bureau of International Labor Affairs**

*Date of Creation:* October 10, 1947

*Statute:* Not established in U.S. Code

### **Bureau of Labor Statistics**

*Date of Creation:* June 27, 1884<sup>286</sup>

*Statute:* 29 U.S.C. §§ 1-9b; 557 (2017)

*Authorizing Language:* The following-named offices, bureaus, divisions, and branches of the public service, and all that pertains to the same, shall be under the jurisdiction and supervision of the Department of Labor. . .Bureau of Labor Statistics.

- Reference: 29 U.S.C. § 557 (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* [The Commissioner of Labor Statistics] shall hold his office for four years, unless sooner removed.

- Reference: 29 U.S.C. § 3 (2017)

*Staggered Terms:* N/A

*For Cause:* None

*Serve President:* None

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<sup>285</sup> Employs administrative law judges. Association of Administrative Law Judges. “Agencies Employing Administrative Law Judges,” <http://www.aalj.org/agencies-employing-administrative-law-judges> (accessed October 30, 2017).

<sup>286</sup> Established as the Bureau of Labor in the Department of the Interior in 1884. 23 Stat. 60 (1884). The agency became a free-standing agency in 1888. 25 Stat. 182 (1888). In 1903, the agency was transferred into the newly created Department of Commerce and Labor. Pub. L. No. 87, 32 Stat. 825 (1903). Finally, in 1913, Congress moved the agency to its current location in the Department of Labor. Pub. L. No. 425, 37 Stat. 736. (1913).

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The Bureau of Labor Statistics shall be under the charge of a Commissioner of Labor Statistics, who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 29 U.S.C. § 3 (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* The Commissioner of Labor Statistics shall annually make a report in writing to the . . . Congress, of the information collected and collated by him, and containing such recommendations as he may deem calculated to promote the efficiency of the department.

- Reference: 29 U.S.C. § 6 (2017)
- The Commissioner of Labor Statistics. . . shall, on or before the 15<sup>th</sup> day of March in each year, make a report in detail to Congress of all moneys expended under his direction during the preceding fiscal year.
- Reference: 29 U.S.C. § 6 (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Employee Benefits Security Administration**

*Date of Creation:* Unknown<sup>287</sup>

*Statute:* Not established in U.S. Code

### **Employment and Training Administration**

*Date of Creation:* August 25, 1954<sup>288</sup>

*Statute:* Not established in U.S. Code

### **Mine Safety and Health Administration**

*Date of Creation:* November 9, 1977<sup>289</sup>

*Statute:* 29 U.S.C. § 557a (2017)

*Authorizing Language:* There is established in the Department of Labor a Mine Safety and Health Administration.

- Reference: 29 U.S.C. § 557a (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

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<sup>287</sup> The agency was originally established as the Pension and Welfare Benefits Program. In 1986, the Program became known as the Pension and Welfare Benefits Administration and in 2003, the agency took its current name. See <https://www.dol.gov/agencies/ebsa/about-ebsa/about-us/history-of-ebsa-and-erisa>.

<sup>288</sup> Originally established as the Manpower Administration. Department of Labor General Order No. 63 (1954). The agency was renamed to the Employment and Training Administration in 1975. Secretarial Order 14-75 (1975).

<sup>289</sup> Federal Mine Safety and Health Amendments Act of 1977, Pub. L. No. 95-164, 91 Stat. 1290 (1977).

*Agency Specific Personnel:* None  
*Limitation on Appointment:* None  
*Party Balancing:* N/A  
*Fixed Terms:* None  
*Staggered Terms:* N/A  
*For Cause:* N/A  
*Serve President:* None  
*Continuation until Replacement:* None  
*Acting Service Rules:* None  
*Who is Head of Agency:* [The Administration is] to be headed by an Assistant Secretary of Labor for Mine Safety and Health appointed by the President, by and with the advice and consent of the Senate.

- Reference: 29 U.S.C. § 557a (2017)

*OMB Review:* None  
*Independent Litigating:* None  
*Independent Sources of Funding:* None  
*Reporting Requirements:* None  
*Review Commissions:* None  
*Advisory Commissions:* None  
*Action Require Outside Approval:* None  
*Legislative Veto:* None  
*Adjudication:* None

### **Occupational Safety and Health Administration**

*Date of Creation:* December 29, 1970<sup>290</sup>  
*Statute:* Not established in U.S. Code<sup>291</sup>

### **Office of Disability Employment Policy**

*Date of Creation:* December 29, 2000<sup>292</sup>  
*Statute:* 29 U.S.C. § 557b (2017)  
*Authorizing Language:* That beginning in fiscal year 2001, there is established in the Department of Labor an office of disability employment policy.

- Reference: 29 U.S.C. § 557b (2017)

*Commissioners/Board Members:* None  
*Quorum Rules:* N/A  
*Agency Specific Personnel:* None  
*Limitation on Appointment:* None  
*Party Balancing:* N/A  
*Fixed Terms:* None  
*Staggered Terms:* N/A

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<sup>290</sup> Occupational Safety and Health Act of 1970, Pub. L. No. 91-596, 84 Stat. 1590 (1970).

<sup>291</sup> While the U.S. Code does not explicitly reference the establishment of an administration, the Occupational Safety and Health Act of 1970 gave the Secretary of Labor the authority under which the Occupational Safety and Health Administration operates. See 29 U.S.C. §§ 651-678 (2017); Occupational Safety and Health Administration. 2017. "About OSHA." Available at, <https://www.osha.gov/about.html>.

<sup>292</sup> Pub. L. No. 106-554, 114 Stat. 2763 (2000).

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* Such an office shall be headed by an Assistant Secretary.<sup>293</sup>

- Reference: 29 U.S.C. § 557b (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Office of Federal Contract Compliance Programs**

*Date of Creation:* November 8, 2009<sup>294</sup>

*Statute:* Not established in U.S. Code

### **Office of Labor-Management Standards**

*Date of Creation:* November 8, 2009<sup>295</sup>

*Statute:* Not established in U.S. Code

### **Office of Workers Compensation Programs**

*Date of Creation:* November 8, 2009<sup>296</sup>

*Statute:* Not established in U.S. Code

### **Pension Benefit Guaranty Corporation**

*Date of Creation:* September 2, 1974<sup>297</sup>

*Statute:* 29 U.S.C. §§ 1301-1310 (2017)

*Authorizing Language:* There is established within the Department of Labor a body corporate to be known as the Pension Benefit Guaranty Corporation.

- Reference: 29 U.S.C. § 1302(a) (2017)

*Commissioners/Board Members:* The board of directors of the corporation consists of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Commerce.

- Reference: 29 U.S.C. § 1302(d)(1) (2017)

*Quorum Rules:* A majority of the members of the board of directors in office shall constitute a quorum for the transaction of business.

- Reference: 29 U.S.C. § 1302(d)(2) (2017)

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<sup>293</sup> Assistant Secretaries of Labor are appointed by the President, by and with the advice and consent of the Senate. 29 U.S.C. § 553 (2017)

<sup>294</sup> Secretary of Labor Order No. 10-2009, 74 Fed. Reg. 58,834 (2009).

<sup>295</sup> Secretary of Labor Order No. 10-2009, 74 Fed. Reg. 58,834 (2009).

<sup>296</sup> Secretary of Labor Order No. 10-2009, 74 Fed. Reg. 58,834 (2009).

<sup>297</sup> Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406, 88 Stat. 829 (1974).

*Agency Specific Personnel:* The board of directors of the corporation shall select a Participant and Plan Sponsor Advocate. . .without regard to the provisions of Title 5 relating to appointments in the competitive service or Senior Executive Service.

- Reference: 29 U.S.C. § 1304(a) (2017)

*Limitation on Appointment:* None

*Party Balancing:* None

*Fixed Terms:* The Director shall serve for a term of 5 years unless removed by the President or the board of directors before the expiration of such 5-year term.

- Reference:

*Staggered Terms:* None

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The Secretary of Labor is the chairman of the board of directors.

- Reference: 29 U.S.C. § 1302(d)(1) (2017)

*OMB Review:* None

*Independent Litigating:* The Corporation has the power to sue and be sued, complain and defend, in its corporate name and through its own counsel, in any court, State or Federal.

- Reference: 29 U.S.C. § 1302(b)(1) (2017)

*Independent Sources of Funding:* The Corporation has the power. . .to lease, purchase, accept gifts or donations of, or otherwise to acquire, to own, hold, improve, use or otherwise deal in or with, and to sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of any property, real, personal, or mixed, or any interest therein wherever situated.

- Reference: 29 U.S.C. § 1302(b)(5) (2017)
- There are established on the books of the Treasury of the United States four revolving funds to be used by the corporation in carrying out its duties under this subchapter. One of the funds shall be used with respect to basic benefits guaranteed under section 1322 of this title, one of the funds shall be used with respect to basic benefits guaranteed under section 1322a of this title, one of the funds shall be used with respect to nonbasic benefits guaranteed under section 1322 of this title (of any), and the remaining fund shall be used with respect to nonbasic benefits guaranteed under section 1322a of this title (if any), other than subsection (g)(2) thereof (if any). . .Each fund established under this section shall be credited with the appropriate portion of premiums, penalties, interest, and charges collected under this subchapter, the value of the assets of a plan administered under section 1342 of this title by a trustee to the extent that they exceed the liabilities of such plan, the amount of any employer liability payments under subtitle D, to the extent that such payments exceed liabilities of the plan (taking into account all other plan assets), earnings on investments of the fund or on assets credited to the fund under this subsection, attorney's fees awarded to the corporation, and receipts from any other operations under this subchapter.

- Reference: 29 U.S.C. § 1305 (2017)
- A fifth fund shall be established for the reimbursement of uncollectible withdrawal liability under section 1402 of this title, and shall be credited with the appropriate premiums, penalties, and interest charges collected under this subchapter, and earnings on

investments of the fund or on assets credited to the fund. The fund shall be available to make payments pursuant to the supplemental program established under section 1402 of this title, including those expenses and other charges determined to be appropriate by the corporation. The corporation may invest amounts of the fund in such obligations as the corporation considers appropriate.

- Reference: 29 U.S.C. § 1305(d) (2017)
- A sixth fund shall be established for the supplemental benefit guarantee program provided under section 1322a(g)(2) of this title. Such fund shall be credited with the appropriate premiums, penalties, and interest charges collected under section 1322(g)(2) of this title and earnings on investments of the fund or on assets credited to the fund. The fund shall be available for making payments to the supplemental benefit guarantee program established under section 1322a(g)(2) of this title, including those expenses and other charges determined to be appropriate by the corporation. The Corporation may invest amounts of the fund in such obligations as the corporation considers appropriate.
  - Reference: 29 U.S.C. § 1305(e) (2017)
- A seventh fund shall be established and credited with premiums, penalties, and interest charges collected under section 1306(a)(3)(A)(i) of this title (not described in subparagraph (B)) to the extent attributable to the amount of the premium in excess of \$8.50, premiums, penalties, and interest charges collected under section 1306(a)(3)(E) of this title, and earnings on investments of the fund or on assets credited to the fund. Amounts in the fund shall be available for transfer to other funds established under this section with respect to a single-employer plan but shall not be available to pay administrative costs of the corporation or benefits under any plan which was terminated before October 1, 1988, unless other amounts are available for such payment. The corporation may invest amounts of the fund in such obligations as the corporation considers appropriate.
  - Reference: 29 U.S.C. § 1305(f) (2017)
- The corporation shall prescribe such schedules of premium rates and bases for the application of those rates as may be necessary to provide sufficient revenue to the fund for the corporation to carry out its functions under this subchapter.
  - Reference: 29 U.S.C. § 1306 (2017)

*Reporting Requirements:* If the Participant and Plan Sponsor Advocate is removed from office or is transferred to another position or location within the corporation or the Department of Labor, the board of the directors of the corporation shall communicate in writing the reasons for any such removal or transfer to Congress not less than 30 days before the removal or transfer.

- Reference: 29 U.S.C. § 1304(c) (2017)
- Not later than December 31 of each calendar year, the Participant and Plan Sponsor Advocate shall report to the Health, Education, Labor, and Pensions Committee of the Senate, the Committee on Finance of the Senate, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Ways and Means of the House of Representatives on the activities of the Office of the Participant and Plan Sponsor Advocate during the fiscal year ending during such calendar year.
  - Reference: 29 U.S.C. § 1304(e) (2017)
- In order to place a revised schedule (other than a schedule described in subsection (a)(2)(C), (D), or (E)) in effect, the corporation shall transmit the proposed schedule, its

proposed effective date, and the reasons for its proposal to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives, and to the Committee on Finance and the Committee on Labor and Human Resources of the Senate.

- Reference: 29 U.S.C. § 1306(b)(1) (2017)
- As soon as practicable after the close of each fiscal year the corporation shall transmit to . . . the Congress a report relative to the conduct of its business under this subchapter for that fiscal year.
  - Reference: 29 U.S.C. § 1308 (2017)
- The corporation shall, on an annual basis, submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate and the Committee on Education and the Workforce and the Committee on Ways and Means of the House of Representatives, a summary report in the aggregate of the information submitted to the corporation under this section.
  - Reference: 29 U.S.C. § 1310(e) (2017)

*Review Commissions:* None

*Advisory Commissions:* There is established an advisory committee to the corporation, for the purpose of advising the corporation as to its policies and procedures relating to (A) the appointment of trustees in termination proceedings, (B) investment of moneys, (C) whether plans being terminated should be liquidated immediately or continued in operation under a trustee, (D) such other issues as the corporation may request from time to time, and (E) other issues as determined appropriate by the advisory committee.

- Reference: 29 U.S.C. § 1302(h) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Veterans' Employment and Training Service**

*Date of Creation:* December, 1981<sup>298</sup>

*Statute:* 38 U.S.C. § 4100-4115 (2017)<sup>299</sup>

*Authorizing Language:* The Congress declares as its intent and purpose that there shall be . . . a Veterans' Employment and Training Service within the Department of Labor.

- Reference: 38 U.S.C. § 4102 (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* No individual may be appointed as Deputy Assistant Secretary of Labor for Veterans' Employment and Training unless the individual has at least five

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<sup>298</sup> The Veterans' Education and Employment Assistance Act of 1976 established a Deputy Assistant Secretary of Labor for Veterans' Employment. Pub. L. No. 94-502, 90 Stat. 2383 (1976). The position was elevated to Assistant Secretary status in 1980. Veterans' Rehabilitation and Education Amendments of 1980, Pub. L. No. 96-466, 94 Stat. 2171 (1980). The Veterans' Employment and Training Service was officially established by Secretarian Order. Secretary of Labor Order No. 5-81.

<sup>299</sup> Unless expressly provided otherwise, the Secretary shall carry out 38 U.S.C. §§4100-4115 through the Assistant Secretary of Labor for Veterans' Employment and Training. 38 U.S.C. § 4102A(b)(1) (2017).

years of service in a management position as an employee of the Federal civil service or comparable service in a management position in the Armed Forces.

- Reference: 38 U.S.C. § 4102A(a)(3)(B) (2017)
- Each Director for Veterans' Employment and Training for a State shall, at the time of appointment, have been a bona fide resident of the State for at least two years.
  - Reference: 38 U.S.C. § 4103(a)(2)(A) (2017)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The Congress declares as its intent and purpose that there shall be an effective [veterans employment program to] be promulgated and administered by an Assistant Secretary of Labor for Veterans' Employment and Training, established by section 4102A of this title, through a Veterans' Employment and Training Service within the Department of Labor.

- Reference: 38 U.S.C. § 4102 (2017)
- There is established within the Department of Labor an Assistant Secretary of Labor for Veterans' Employment and Training, appointed by the President by and with the advice and consent of the Senate.
  - Reference: 38 U.S.C. § 4102A(a)(1) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* Not later than February 1 of each year, the Secretary shall report to the Committees on Veterans' Affairs of the Senate and the House of Representatives on the performance of States and organizations and entities carrying out employment, training, and placement services under this chapter, as measured under subsection (b)(7) of section 4102A of this title.

- Reference: 38 U.S.C. § 4107(b) (2017)
- Not later than February 1 of each year, the Secretary shall report to the Committees on Veterans' Affairs of the Senate and the House of Representatives on the success during the preceding program year of the Department of Labor and its affiliated State employment service agencies in carrying out the provisions of this chapter and programs for the provision of employment and training services to meet the needs of eligible veterans and eligible persons.
  - Reference: 38 U.S.C. § 4107(c) (2017)
- Within 60 days after receiving each annual report referred to in subsection (f)(1) [from the Advisory Committee on Veterans Employment, Training, and Employer Outreach], the Secretary of Labor shall transmit to Congress a copy of the report together with any comments concerning the report that the Secretary considers appropriate.
  - Reference: 38 U.S.C. § 4110(g) (2017)
- By not later than July 1 of each year covered by the study required under subsection (a), the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the

Committee on Veterans' Affairs of the House of Representatives a report on the outcomes of the study during the preceding year.

- Reference: 38 U.S.C. § 4115(b)(1) (2017)

*Review Commissions:* None

*Advisory Commissions:* There is hereby established within the Department of Labor an advisory committee to be known as the Advisory Committee on Veterans Employment, Training, and Employer Outreach. The advisory committee shall . . . assist the Assistant Secretary of Labor for Veterans' Employment and Training in carrying out outreach activities to employers with respect to the training and skills of veterans and the advantages afforded employers by hiring veterans; make recommendations to the Secretary, through the Assistant Secretary of Labor for Veterans' Employment and Training, with respect to outreach activities and the employment and training of veterans.

- Reference: 38 U.S.C. § 4110(a) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Wage and Hour Division**

*Date of Creation:* June 25, 1938<sup>300</sup>

*Statute:* 29 U.S.C. § 204 (2017)

*Authorizing Language:* There is created in the Department of Labor a Wage and Hour Division.

- Reference: 29 U.S.C. § 204(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* [The Division] shall be under the direction of an Administrator, to be known as the Administrator of the Wage and Hour Division. The Administrator shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 29 U.S.C. § 204(a) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* The Secretary shall submit biennially in January a report to the Congress covering his activities for the preceding two years and including such information, data, and recommendations for further legislation in connections with the matters covered by this chapter as he may find advisable. Such report shall contain an

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<sup>300</sup> Fair Labor Standards Act of 1938, Pub. L. No. 718, 53 Stat. 1060 (1938).

evaluation and appraisal by the Secretary [through the Wage and Hour Division] of the minimum wages and overtime coverage established by this chapter, together with his recommendations to the Congress.

- Reference: 29 U.S.C. § 204(d)(1) (2017)
- The Secretary shall conduct a continuing study [through the Wage and Hour Division] on means to prevent curtailment of employment opportunities for manpower groups which have had historically high incidences of unemployment. . . The first report of the results of such study shall be transmitted to the Congress not later than one year after the effective date of the Fair Labor Standards Amendments of 1974. Subsequent reports on such study shall be transmitted to the Congress at two-year intervals after such effective date.
  - Reference: 29 U.S.C. § 204(d)(3) (2017)
- Whenever the Secretary [through the Wage and Hour Division] has reason to believe that in any industry under this chapter the competition of foreign producers in United States markets or in markets abroad, or both, has resulted, or is likely to result, in increased unemployment in the United States, he shall undertake an investigation to gain full information with respect to the matter. If he determines such increased unemployment has in fact resulted, or is in fact likely to result from such competition, he shall make a full and complete report of his findings and determinations to the President and to the Congress.
  - Reference: 29 U.S.C. § 204(e) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Women's Bureau**

*Date of Creation:* June 5, 1920<sup>301</sup>

*Statute:* 29 U.S.C. §§ 11-14 (2017)

*Authorizing Language:* There shall be established in the Department of Labor a bureau to be known as the Women's Bureau.

- Reference: 29 U.S.C. § 11 (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* The Women's Bureau shall be in charge of a director, a woman.

- Reference: 29 U.S.C. § 12 (2017)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

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<sup>301</sup> Pub. L. No. 259, 41 Stat. 987 (1920).

*Who is Head of Agency:* The Women’s Bureau shall be in charge of a director. . .to be appointed by the President.

- Reference: 29 U.S.C. § 12 (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **DEPARTMENT OF STATE**

*Date of Creation:* July 27, 1789<sup>302</sup>

*Statute:* 22 U.S.C. §§ 2651-2735 (2017)

*Authorizing Language:* There shall be at the seat of government an executive department to be known as the “Department of State.”

- Reference: 22 U.S.C. § 2651 (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* The officer of the Department of State with primary responsibility for assisting the Secretary with respect to matters relating to personnel in the Department of State, or that office’s principal deputy, shall have substantial professional qualifications in the field of human resource policy and management.

- Reference: 22 U.S.C. § 2651a(g)(1) (2017)
- The officer of the Department of State with primary responsibility for assisting the Secretary with respect to diplomatic security, or that officer’s principal deputy, shall have substantial professional qualifications in the fields of (A) management, or (B) Federal law enforcement, intelligence, or security.
  - Reference: 22 U.S.C. § 2651a(g)(2) (2017)
- The officer of the Department of State with primary responsibility for assisting the Secretary with respect to international narcotics and law enforcement, or that officer’s principal deputy, shall have substantial professional qualifications in the fields of (A) management or (B) law enforcement or international narcotics policy.
  - Reference: 22 U.S.C. § 2651a(g)(3) (2017)
- To carry out the purposes of subsection (a) of this section, the Secretary is authorized to establish the position of Counselor for Nonproliferation and Political Military Affairs in the United States diplomatic missions overseas, to be filled by individuals who are career Civil Service officers or Foreign Service officers committed to follow-on assignments in the Nonproliferation Bureau or the Political Military Affairs Bureau of the Department.
  - Reference: 22 U.S.C. § 2655b(b) (2017)

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<sup>302</sup> 1 Stat. 28 (1789).

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* A Secretary of State, who shall be the head [of the Department of State].

- Reference: 22 U.S.C. § 2651 (2017)
- The Secretary. . . shall be appointed by the President, by and with the advice and consent of the Senate.
  - Reference: 22 U.S.C. § 2651a (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* On and after May 15, 1936, whenever the Secretary of State, in his discretion, procures information on behalf of corporations, firms, and individuals, the expense of cablegrams and telephone service involved may be charged against the respective appropriations for the service utilized; and reimbursement therefor shall be required from those for whom the information was procured and, when made, be credited to the appropriation under which the expenditure was charged.

- Reference: 22 U.S.C. § 2661 (2017)
- The Secretary of state is authorized to accept reimbursement from corporations, firms, and individuals for the expense of travel, translation, printing, special experts, and other extraordinary expenses (including such expenses as salaries and other personnel expenses) incurred in pursuing a claim on their behalf against a foreign government or other foreign entity. Such reimbursements shall be credited to the appropriation account against which the expense was initially charged.
  - Reference: 22 U.S.C. § 2661 (2017)
- In fiscal year 2001 and thereafter reimbursements for services provided to the press in connection with the travel of senior-level officials may be collected and credited to this appropriation and shall remain available until expended.
  - Reference: 22 U.S.C. § 2661b (2017)
- The Inspector General of the Department of States shall conduct a periodic audit of the Department of State's emergency expenditures and prepare and transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate an annual report indicating whether such expenditures were made in accordance with subsections (a) and (b) of this section [emergency expenditures]
  - Reference: 22 U.S.C. § 2671(c) (2017)
- The exchange allowances or proceeds derived from the exchange or sale of passenger motor vehicles in possession of the Foreign Service abroad, in accordance with section 503 of Title 40, shall be available without fiscal year limitation for replacement of an equal number of such vehicles.
  - Reference: 22 U.S.C. § 2674 (2017)
- For the purposes of sections 2681 to 2683 of this title [international broadcasting], the Secretary is authorized to acquire property or rights or interests therein necessary or

desirable for the operation of such facilities by purchase, lease, gift, transfer, condemnation, or otherwise.

- Reference: 22 U.S.C. § 2681 (2017)
- There is hereby established a working capital fund for the Department of State, which shall be available without fiscal year limitation, for expenses (including those authorized by the Foreign Service Act of 1980) and equipment, necessary for maintenance and operation in the city of Washington and elsewhere of (1) central reproduction, editorial, data processing, audiovisual, library and administrative support services; (2) central services for supplies and equipment (including repairs); (3) such other administrative services as the Secretary, with the approval of the Office of Management and Budget, determines may be performed more advantageously and more economically as central services; and (4) medical and health care services. Such fund shall also be available without fiscal year limitation to carry out the purposes of title II of this act [regulation of foreign missions]. The capital of the fund shall consist of the amount of the fair and reasonable value of such supply inventories, equipment, and other assets and inventories on order, pertaining to the services to be carried on by the fund, as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations, together with any appropriations made for the purpose of providing capital. The fund shall be reimbursed, or credited with advance payments, from applicable appropriations and funds of the Department of State, other Federal agencies, and other sources authorized by law, for supplies and services at rates which will approximate the expense of operations, including accrual of annual leave and depreciation of plan and equipment of the fund. The fund shall also be credited with other receipts from sale or exchange of property or in payment for loss or damage to property held by the fund.
  - Reference: 22 U.S.C. § 2684 (2017)
- There is established within the Department of State a Capital Investment Fund to provide for the procurement and enhancement of information technology and other related capital investments for the Department of State and to ensure the efficient management, coordination, operation, and utilization of such resources. Funds otherwise available for the purposes of subsection (a) of this section may be deposited in such Fund. Amounts deposited into the Fund shall remain available until expended.
  - Reference: 22 U.S.C. § 2684a (2017)
- Notwithstanding any other provision of law, the Secretary of State is authorized to require the payment of an appropriate fee, surcharge, or reimbursement for providing other Federal agencies with foreign language translation and interpretation services. Funds collected under the authority of subsection (a) of this section shall be deposited as an offsetting collection to any Department of State appropriation to recover the cost of providing translation or interpretation services in any foreign language. Such funds may remain available until expended.
  - Reference: 22 U.S.C. § 2685a (2017)
- The Secretary of State may accept on behalf of the United States gifts made unconditionally by will or otherwise for the benefit of the Department of State (including the Foreign Service) or for the carrying out of any of its functions. Conditional gifts may be so accepted at the discretion of the Secretary, and the principal of and income from any such conditional gift shall be held, invested, reinvested, and used in accordance with its conditions, except that no gifts shall be accepted which is conditioned upon any

expenditures which will not be met by the gift or the income from the gift unless such expenditure is approved by an Act of Congress.

- Reference: 22 U.S.C. § 2697(a) (2017)
- In order to provide the Department of State with a dependable, flexible, and adequate source of funding for the expenses of the Department related to preparing or prosecuting a proceeding before an international tribunal, or a claim by or against a foreign government or other foreign entity, there is established an International Litigation Fund. The ILF may be available without fiscal year limitation.
  - Reference: 22 U.S.C. § 2710(d) (2017)
- Whenever the Secretary of State determines that any item covered by paragraph (1) [historic and artistic items] is no longer needed for use or display in the reception areas or in order to upgrade the reception areas, a better use of that article would be its sale or exchange, the Secretary may, with the advice and concurrence of the Director of the National Gallery of Art, sell the item at fair market value or trade it, without regard to the requirements of chapters 1 to 11 of Title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3096, 4710, and 4711) of subtitle I of Title 41. The proceeds of any such sale may be credited to the unconditional gift account of the Department of State, and items obtained in trade shall be the property of the Secretary of State under this subsection.
  - Reference: 22 U.S.C. § 2713(b)(2) (2017)
- For each fiscal year, 100 percent of the registration fees collected by the Office of Defense Trade Controls of the Department of State shall be credited to a Department of State account, to be available without fiscal year limitation. Fees credited to that account shall be available only for the payment of expenses incurred for contract personnel to assist in the evaluation of defense trade controls license applications, reduction in processing time for license applications, and improved monitoring of compliance with the terms of licenses; the automation of defense trade controls functions, including compliance and enforcement activities, and the processing of defense trade controls license applications, including the development, procurement, and utilization of computer equipment and related software; and the enhancement of defense trade export compliance and enforcement activities, including compliance audits of the United States and foreign parties, the conduct of administrative proceedings, monitoring of end-uses in cases of direct commercial arms sales or other transfers, and cooperation in proceedings for enforcement of criminal laws related to defense trade export controls.
  - Reference: 22 U.S.C. § 2717 (2017)
- Notwithstanding any other provision of law, funds received by the Department of State in connection with use of Blair House (including reimbursements and surcharges for services and goods provided and fees for use of Blair House facilities) may be credited to the appropriate appropriation account of the Department of States which is currently available. Such funds shall be available only for maintenance and other expenses of Blair House.
  - Reference: 22 U.S.C. § 2718(a) (2017)
- Subject to paragraph (2), the Secretary of State is authorized to charge a fee to cover the actual or estimated cost of providing any person, firm, or organization (other than agencies of the United States Government) with commercial services at posts abroad on matters within the authority of the Department of State. The authority of this section may

be exercised only in countries where the Department of Commerce does not perform commercial services for which it collects fees. Funds collected under the authority of subsection (a) of this section shall be deposited as an offsetting collect to any Department of State appropriation to recover the costs of providing commercial services. Funds deposited under this subsection shall remain available for obligation through September 30 of the fiscal year following the fiscal year in which the funds were deposited.

- Reference: 22 U.S.C. § 2724 (2017)
- The Secretary is authorized to charge a fee for use of the George P. Shultz National Foreign Affairs Training Center of the Department of State. Amounts collected under this section (including reimbursements and surcharges) shall be deposited as an offsetting collection to any Department of State appropriation to recover the costs of such use and shall remain available for obligation until expended.
  - Reference: 22 U.S.C. § 2725 (2017)
- The Secretary is authorized to charge a fee for use of the diplomatic reception rooms of the Department of State. Amounts collected under this section (including reimbursements and surcharges) shall be deposited as an offsetting collection to any Department of State appropriation to recover the costs of such use and shall remain available for obligation until expended.
  - Reference: 22 U.S.C. § 2726 (2017)

*Reporting Requirements:* The Secretary of State shall promptly advise the Congress whenever the Department of State issues a travel advisory, or other public warning notice for United States citizens traveling abroad, because of a terrorist threat or other security concern.

- Reference: 22 U.S.C. § 2656e (2017)
- The Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, by April 30 of each year, a full and complete report providing [detailed assessment with respect to foreign countries in which acts of terrorism occurred, there is a sanctuary for terrorist groups, with which the U.S. has sought cooperation to fight terrorism].
  - Reference: 22 U.S.C. § 2656f (2017)
- Beginning 90 days after October 28, 1991, and every 365 days thereafter, the Secretary of the Treasury, in consultation with the Attorney General and appropriate investigative agencies, shall submit to the Committee on Foreign Relations and the Committee on Finance of the Senate and the Committee on Foreign Affairs and the Committee on Ways and Means of the House of Representatives a report describing the nature and extent of assets held in the United States by terrorist countries and any organization engaged in international terrorism.
  - Reference: 22 U.S.C. § 2656g (2017)
- Not later than 90 days after October 28, 1991, the Assistant Secretary of State for Economic and Business Affairs, in consultation with the Secretary of the Treasury, shall submit to the Chairman of the Foreign Relations Committee of the Senate and the Speaker of the House of Representatives a report setting forth clear criteria for bilateral loans by which the United States can determine the likelihood of repayment by a country seeking to receive United States loans.
  - Reference: 22 U.S.C. § 2656h(a) (2017)

- Beginning 180 days after the submission of the report in subsection (a) of this section and annually thereafter, the Secretary of State, in consultation with the Secretary of the Treasury, shall submit a report to the Chairman of the Foreign Relations Committee of the Senate and the Speaker of the House of Representatives showing actual repayments by country and by program to the United States Government for the previous 5 years and the scheduled repayments to the United States government for the next 5 years.
  - Reference: 22 U.S.C. § 2656h(b) (2017)
- Not later than February 15 of each year subsequent to the submission of the strategy described in paragraph (1) [National Drug Control Strategy], the Secretary shall submit to Congress an update of the strategy.
  - Reference: 22 U.S.C. § 2656i(a)(3) (2017)
- The Secretary of State may waive the requirements of this section [prohibition on discriminatory contracts] on a country-by-country basis for a period not to exceed one year upon certification to the Congress by the Secretary that such waiver is in the national interest and is necessary to carry on diplomatic functions of the United States.
  - Reference: 22 U.S.C. § 2679c(b) (2017)
- The Department of States shall keep the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives fully and currently informed with respect to all activities and responsibilities within the jurisdiction of these committees.
  - Reference: 22 U.S.C. § 2680 (2017)
- An officer or employee of the Department of State to whom a written or oral question is addressed by any member of a committee specified in subsection (b) of this section, acting within his official capacity, shall respond to such question within 21 days unless the Secretary of State submits a letter to such member explaining why a timely response cannot be made. The committees referred to in subsection (a) of this section are the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.
  - Reference: 22 U.S.C. § 2680-1 (2017)
- Whenever the Secretary finds that the operation of the facilities authorized by sections 2681 to 2683 of this title [international broadcasting facilities] to be transferred is no longer necessary or desirable, he shall report such fact to Congress with his recommendations for the disposition of such facilities.
  - Reference: 22 U.S.C. § 2682 (2017)
- Any expenditures for any gift for any person of any foreign country which involves any funds made available to meet unforeseen emergencies arising in the Diplomatic and Consular Service shall be audited by the Comptroller General and reports thereon made to the Congress to such extent and at such times as he may determine necessary.
  - Reference: 22 U.S.C. § 2690 (2017)
- Beginning October 1, 1977, the Secretary of State shall annually transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report containing details on (1) any gifts of more than minimal value purchased with appropriated funds which were given to a foreign individual during the previous year, and (2) any other gifts of more than minimal value given by the United States Government to a foreign individual which were not obtained using appropriated funds.

- Reference: 22 U.S.C. § 2694(2) (2017)
- Unless the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate are notified fifteen days in advance of the proposed reprogramming, funds appropriated for the Department of State shall not be available for obligation or expenditure through any reprogramming of funds which creates new programs; which eliminates a program, project, or activity; which increases funds or personnel by any means for any project or activity for which funds have been denied or restricted by the Congress; which relocates an office or employees; which reorganizes offices, programs, or activities; which involves contracting out functions which had been performed by Federal employees; or which involves [a reprogramming in excess of \$1,000,000]. . . The Secretary of State may waive the notification requirement of subsection (a) of this section, if the Secretary determines that failure to do so would pose a substantial risk to human health or welfare. In the case of any waiver under this subsection, notification to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives shall be provided as soon as practicable, but not later than 3 days after taking the action to which the notification requirement was applicable, and shall contain an explanation of the emergency circumstances.
  - Reference: 22 U.S.C. § 2706 (2017)
- Not later than 30 days after the payment of any reward under this section [Department of State rewards program], the Secretary shall submit a report to the appropriate congressional committees with respect to such reward.
  - Reference: 22 U.S.C. § 2708(g)(1) (2017)
- Not later than 60 days after the end of each fiscal year, the Secretary shall submit a report to the appropriate congressional committees with respect to the operation of the [Department of State] rewards program.
  - Reference: 22 U.S.C. § 2708(g)(2) (2017)
- Not less than 15 days before publicly announcing that a reward may be offered for a particular foreign national accused of war crimes, crimes against humanity, or genocide, the Secretary of State shall submit to the appropriate congressional committees a report, which may be submitted in classified form if necessary, setting forth the reasons why the arrest or conviction of such foreign national is in the national interests of the United States.
  - Reference: 22 U.S.C. § 2708(g)(3) (2017)
- Not less than 15 days after a reward is authorized under this section, the Secretary of State shall submit to the appropriate congressional committees a report, which may be submitted in classified form if necessary to protect intelligence sources and methods, detailing information about the reward, including the identity of the individual for whom the reward is being made, the amount of the reward, the acts with respect to which the reward is being made, and how the reward is being publicized.
  - Reference: 22 U.S.C. § 2708(g)(4) (2017)
- Not less than 30 days before issuing any regulations under this section [authority to control certain terrorism-related services] (including any amendments thereto), the Secretary of State shall transmit the proposed regulations to the Congress.

- Reference: 22 U.S.C. § 2712(g)(1) (2017)
- Not less than once every six months, the Secretary of State shall report to the Congress concerning the number and character of licenses granted and denied during the previous reporting period, and such other information as the Secretary may find to be relevant to the accomplishment of the objectives of this section.
  - Reference: 22 U.S.C. § 2712(g)(2) (2017)
- Not less than 45 days before the closing of any United States consular or diplomatic post abroad, the Secretary of State shall notify the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.
  - Reference: 22 U.S.C. § 2720(b) (2017)
- The Secretary shall report, on a timely basis, to the appropriate committees of the Congress each time a consular post denies a visa on the grounds of terrorist activities or foreign policy. Such report shall set for the name and nationality of each such person and a factual statement of the basis for such denial.
  - Reference: 22 U.S.C. § 2723(a)(1) (2017)
- The Secretary shall, on a semiannual basis, submit to the appropriate committees of the Congress a report describing every instance during the period covered by the report in which a consular post or the Visa Office of the Department of State issued an immigrant or nonimmigrant visa to an alien who is inadmissible to the United States based upon terrorist activity or failure to object to the issuance of an immigrant or nonimmigrant visa to an alien notwithstanding any such ground of inadmissibility.
  - Reference: 22 U.S.C. § 2723(a)(2) (2017)
- 180 days after October 21, 1998, and annually thereafter, the Secretary of State shall prepare and submit to the Congress, a report concerning diplomatic immunity entitled “Report on Cases Involving Diplomatic Immunity.”
  - Reference: 22 U.S.C. § 2728(a) (2017)
- None of the funds made available to the Department of State, or the United States Emergency Refugee and Migration Assistant Fund established in section 2601(c) of this title, may be available to effect the involuntary return by the United States of any person to any country unless the Secretary first notifies the appropriate congressional committees, except that, in the case of an emergency involving a threat to human life, the Secretary shall notify the appropriate congressional communities as soon as practicable.
  - Reference: 22 U.S.C. § 2730(b) (2017)
- Not later than 180 days after December 16, 2016, and quadrennially thereafter, the Secretary shall submit to Congress a comprehensive report that describes the efforts, consistent with existing law, including procedures, effects, and results of the Department since the period covered by the prior such report, to promote equal opportunity and inclusion for all American employees in direct hire and personal service contractors status, particularly employees of the Foreign Service, including equal opportunity for all traditionally underrepresented minority groups.
  - Reference: 22 U.S.C. § 2734b(c) (2017)

*Review Commissions:* None

*Advisory Commissions:* The Secretary of State shall be responsible for formulation, coordination, and oversight of foreign policy related to international communications and information policy. The Secretary of State shall . . . assist in arranging meetings of such public sector advisory groups as may be established to advise the Department of State and other

executive branch agencies in connection with internal communications and information policy issues.

- Reference: 22 U.S.C. § 2702(b)(7) (2017)

*Action Require Outside Approval:* The Secretary of State, with the approval of the Office of Management and Budget, shall prescribe the maximum rates of per diem in lieu of subsistence (or of similar allowances therefor) payable while away from their own countries to foreign participants in any exchange of persons program, or in any program of furnishing technical information and assistance, under the jurisdiction of any Government agency, and said rates may be fixed without regard to any provision of law in limitation thereof.

- Reference: 22 U.S.C. § 2678 (2017)
- There is hereby established a working capital fund for the Department of State, which shall be available without fiscal year limitation, for expenses (including those authorized by the Foreign Service Act of 1980) and equipment, necessary for maintenance and operation in the city of Washington and elsewhere of. . .such other administrative services as the Secretary, with the approval of the Office of Management and Budget, determines may be performed more advantageously and more economically as central services.
  - Reference: 22 U.S.C. § 2684(a) (2017)
- Whenever the head of any Federal agency performing any foreign affairs functions (including, but not limited to, the Department of State, the Broadcasting Board of Governors, and the Agency for International Development) determines that administrative services performed in common by the Department of State and one or more other such agencies may be performed more advantageously and more economically on a consolidated basis, the Secretary of State and the heads of the other agencies concerned may, subject to the approval of the Director of the Office of Management and Budget, conclude an agreement which provides for the transfer to and consolidation within the Department or within one of the other agencies concerned of so much of the functions, personnel, property, records, and funds of the Department and of the other agencies concerned as may be necessary to enable the performance of those administrative services on a consolidated basis for the benefit of all agencies concerned.
  - Reference: 22 U.S.C. § 2695(a) (2017)
- Conditional gifts may be so accepted at the discretion of the Secretary, and the principal of and income from any such conditional gift shall be held, invested, reinvested, and used in accordance with its conditions, except that no gifts shall be accepted which is conditioned upon any expenditures which will not be met by the gift or the income from the gift unless such expenditure is approved by an Act of Congress.
  - Reference: 22 U.S.C. § 2697(a) (2017)
- Before making a reward under this section [Department of State rewards program] in a matter over which there is a Federal criminal jurisdiction, the Secretary of State shall obtain the concurrence of the Attorney General.
  - Reference: 22 U.S.C. § 2708(c)(2) (2017)
- Whenever the Secretary of State determines that any item covered by paragraph (1) [historic and artistic items] is no longer needed for use or display in the reception areas or in order to upgrade the reception areas, a better use of that article would be its sale or

exchange, the Secretary may, with the advice and concurrence of the Director of the National Gallery of Art, sell the item at fair market value or trade it.

- Reference: 22 U.S.C. § 2713(b)(2) (2017)

*Legislative Veto:* None

*Adjudication:* None

### **United States Agency for International Development**

*Date of Creation:* November 3, 1961<sup>303</sup>

*Statute:* 22 U.S.C. §§ 6581-6593 (2017)

*Authorizing Language:* The Agency for International Development shall be reorganized in accordance with this chapter and the reorganization plan transmitted pursuant to section 6601 of this title [providing for the transfer to the Department of State of the functions and personnel of USAID].

- Reference: 22 U.S.C. § 6581(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The Administrator of the Agency for International Development, appointed pursuant to section 2384(a) of this title [president shall appoint, by and with the advice and consent of the Senate], shall report to and be under the direct authority and foreign policy guidance of the Secretary of State.

- Reference: 22 U.S.C. § 6592 (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **DEPARTMENT OF THE INTERIOR**

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<sup>303</sup> The Foreign Assistance Act directed the President to create an agency for the administration of foreign assistance and President Kennedy subsequently created the Agency for International Development by Executive Order. Foreign Assistance Act of 1961, Pub. L. No. 87-195, 75 Stat. 424 (1961); Exec. Order No. 10,973 (1961).

*Date of Creation:* March 3, 1849<sup>304</sup>

*Statute:* 43 U.S.C. §§ 1451-1476a (2017)

*Authorizing Language:* There shall be at the seat of government an executive department to be known as the Department of the Interior.

- Reference: 43 U.S.C. § 1451 (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* A Secretary of the Interior. . .shall be the head thereof [the Department].

- Reference: 43 U.S.C. § 1451 (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The Secretary of the Interior, or any of the officers of that Department may, when not prejudicial to the interests of the Government, furnish authenticated or unauthenticated copies of any official books, records, papers, documents, maps, plats, or diagrams within his custody and may charge therefore a sum equal to the cost of production thereof, plus the cost of administrative services involved in handling the records for such purpose, as these costs may be determined by the Secretary of the Interior or such subordinate officials or employees as he may designate, and in addition the sum of 25 cents for each certificate of verification and the seal attached to authenticated copies. . .The money received for copies under this section shall be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of furnishing copies as herein authorized.

- Reference: 43 U.S.C. § 1460 (2017)
- There is established a working capital fund of \$300,000, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of a central reproduction service; communication services; a central supply service for stationary, supplies, equipment, blank forms, and miscellaneous materials, for which adequate stocks may be maintained to meet in whole or in part requirements of the bureaus and officers of the Department in the city of Washington and elsewhere; a central library service; health services; and such other similar service functions as the Secretary determines may be performed more advantageously on a reimbursable basis. Said fund shall be reimbursable from available funds of bureaus, offices, and agencies for which services are performed at rates which will return in full all expenses of operation, including reserves for accrued annual leave and depreciation of equipment.
  - Reference: 43 U.S.C. § 1467 (2017)

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<sup>304</sup> 9 Stat. 395 (1849).

- Refunds or rebates received on an on-going basis from a credit card services provider under the Department of the Interior’s charge card programs, on and after October 11, 2000, may be deposited to and retained without fiscal year limitation in the Departmental Working Capital Fund established under 43 U.S.C. 1467 and used to fund management initiatives of general benefit to the Department of the Interior’s bureaus and offices as determined by the Secretary or his designee.
  - Reference: 43 U.S.C. § 1467a (2017)
- Within 30 days after November 1, 1985, there shall be established in the Treasury of the United States a working capital fund to assist in the management of certain support activities of the Bureau of Reclamation, Department of the Interior. The fund shall be available without fiscal year limitation for expenses necessary for furnishing materials, supplies, equipment, work, and services in support of Bureau programs, and, as authorized by law, to agencies of the Federal Government and others. . . The fund shall be credited with appropriations made for the purpose of providing or increasing capital. There are authorized to be transferred to the fund (at fair and reasonable values at the time of transfer) the inventories, equipment, receivables, and other assets, less the liabilities, related to the functions to be financed by the fund as determined by the Secretary of the Interior. The fund shall be credited with appropriations and other funds of the Bureau, and other agencies of the Department of the Interior, other Federal agencies, and other sources, for providing materials, supplies, equipment, work, and services as authorized by law.
  - Reference: 43 U.S.C. § 1472 (2017)
- In fiscal year 1987 and thereafter, the Minerals Management Service is authorized to accept land, buildings, equipment and other contributions, from public and private sources, which shall be available for the purposes provided for in this account.
  - Reference: 43 U.S.C. § 1473 (2017)
- The Secretary is authorized to accept lands, buildings, equipment, other contributions and, before, on, and after November 13, 1991, fees to be deposited in the contributed funds account from public and private sources, and to prosecute projects using such contributions and fees in cooperation with other Federal, State or private agencies.
  - Reference: 43 U.S.C. § 1473a (2017)
- In fiscal year 1999 and thereafter, the Secretary may accept donations and bequests of money, services, or other personal property for the management and enhancement of the Department’s Natural Resources Library. The Secretary may hold, use, and administer such donations until expended and without further appropriation.
  - Reference: 43 U.S.C. § 1473e (2017)
- In fiscal year 1989 all but \$742,000 of receipts, and thereafter all receipts from fees established by the Secretary of the Interior for processing of actions related to the administration of the General Mining Laws shall be available for program operations in Mining Law Administration by the Bureau of Land Management to supplement funds otherwise available, to remain available until expended.
  - Reference: 43 U.S.C. § 1474 (2017)
- In fiscal year 1992 and thereafter, amounts received during the immediately preceding fiscal year under section 707 of Title 16 as penalties or fines or from forfeitures of property or collateral, to remain available until expended.
  - Reference: 43 U.S.C. § 1474c (2017)

- One half of the amounts awarded by the Supreme Court of the United States in the case of *United States of America v. State of Alaska* shall be deposited in a fund in the Treasury of the United States to be known as the “Environmental Improvement and Restoration Fund.” The Secretary of the Treasury shall invest amounts in the Fund in interest bearing obligations of the United States. . . Each year, interest earned and covered into the Fund in the previous fiscal year shall be made available as follows: [maintenance of certain bureau facilities; research activities in the North Pacific].
  - Reference: 43 U.S.C. § 1474d (2017)
- Notwithstanding section 3302(b) of Title 31, sums received by the Bureau of Land Management for the sale of seeds or seedlings, may on and after December 8, 2004, be credited to the appropriation from which funds were expended to acquire or grow the seeds or seedlings and are available without fiscal year limitation.
  - Reference: 43 U.S.C. § 1474e (2017)
- Sums not to exceed 1 percent of the total value of procurements received by the Bureau of Land Management from vendors under enterprise information technology-procurements that the Department of the Interior and other Federal Government agencies may use to order information technology on and after March 11, 2009 may be deposited into the Management of Lands and Resources account to offset costs incurred in conducting the procurement.
  - Reference: 43 U.S.C. § 1474f (2017)

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:*<sup>305</sup> None

### **Bureau of Indian Affairs**

*Date of Creation:* March 11, 1824<sup>306</sup>

*Statute:* 25 U.S.C. §§ 1-17 (2017)

*Authorizing Language:* None

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

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<sup>305</sup> Employs administrative law judges. Association of Administrative Law Judges. “Agencies Employing Administrative Law Judges,” <http://www.aalj.org/agencies-employing-administrative-law-judges> (accessed October 30, 2017).

<sup>306</sup> The Bureau was established by the Secretary of War in 1824. Congress initially recognized the bureau in 1832 and, in 1849, transferred the bureau to the Department of the Interior. 4 Stat. 564 (1832); 9 Stat. 395 (1849).

*Acting Service Rules:* The Secretary may designate for the Bureau of Indian Affairs an assistant or deputy commissioner, who shall be authorized to perform the duties of the commissioner in case of the death, resignation, absence, or sickness of the commissioner.

- Reference: 25 U.S.C. § 2a (2017)

*Who is Head of Agency:* There shall be in the Department of the Interior a Commissioner of Indian Affairs, who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 25 U.S.C. § 1 (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* On and after October 12, 1984, moneys received by grant to the Bureau of Indian Affairs from other Federal agencies to carry out various programs for elementary and secondary education, handicapped programs, bilingual education, and other specific programs shall be deposited into the appropriation account available for the operation of Bureau schools during the period covered by the grant and shall remain available as otherwise provided by law.

- Reference: 25 U.S.C. § 14a (2017)
- The Secretary of the Interior is authorized to retain collections from the public in payment for goods and services provided by the Bureau of Indian Affairs. Such collections shall be credited to the appropriation account against which obligations were incurred in providing such goods and services.
  - Reference: 25 U.S.C. § 14b (2017)
- The Secretary of the Interior may permit tribal governments and organizations and student organizations to use Bureau of Indian Affairs equipment, land, buildings, and other structures if such use does not interfere with the purpose for which they are administered by the Bureau and when such use benefits Indians or federally funded programs. The Secretary may charge the user for the cost of the utilities and other expenses incurred for the use. The amounts collected shall be credited to the appropriation or fund from which the expenses are paid and shall be available until the end of the fiscal year following the fiscal year in which collected.
  - Reference: 25 U.S.C. § 17 (2017)

*Reporting Requirements:* The Commissioner of Indian Affairs shall transmit to Congress said agreements [with tribes for commutation of perpetual annuities] with such recommendations as he may deem proper.

- Reference: 25 U.S.C. § 12 (2017)
- Except for electric utility systems constructed and operated as a part of an irrigation system, the Secretary of the Interior is authorized to contract under such terms and conditions as he considers to be in the best interest of the Federal Government for the sale, operation, maintenance, repairs, or relocation of Government-owned utilities and utility systems and appurtenances used in the administration of the Bureau of Indian Affairs. The Secretary shall not execute a contract pursuant to this section until he has submitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a copy of the contract and a statement of his reasons for proposing the contract, and until such materials have lain before the Committees for sixty days (excluding the time during which either House

is in recess for more than three days) unless prior thereto the Secretary is notified that neither committee has any objection to the proposed contract.

- Reference: 25 U.S.C. § 15 (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* The Commissioner of Indian Affairs is authorized to send a special Indian Agent, or other representative of his office, to visit any Indian tribe for the purpose of negotiating and entering into a written agreement with such tribe for the commutation of the perpetual annuities due under treaty stipulations, to be subject to the approval of Congress.

- Reference: 25 U.S.C. § 12 (2017)

*Legislative Veto:* None

*Adjudication:* None

### **Bureau of Land Management**

*Date of Creation:* July 16, 1946<sup>307</sup>

*Statute:* 43 U.S.C. §§ 1457; 1731-1748c (2017)

*Authorizing Language:* The Secretary of the Interior is charged with the supervision of public businesses relating to the following subjects and agencies: . . . Bureau of Land Management.

- Reference: 43 U.S.C. § 1457 (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* The Director of the Bureau shall have a broad background and substantial experience in public land and natural resource management.

- Reference: 43 U.S.C. § 1731(a) (2017)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The Bureau of Land Management established by Reorganization Plan Numbered 3, of 1946 shall have as its head a Director. Appointments to the position of Director shall hereafter be made by the President, by and with the advice and consent of the Senate.

- Reference: 43 U.S.C. § 1731(a) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* In fiscal year 1997 and thereafter, all fees, excluding mining claim fees, in excess of the fiscal year 1996 collections established by the Secretary of the Interior under the authority of 1734 of this title for processing, recording, or documenting

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<sup>307</sup> Reorganization Plan No. 3 of 1946.

authorizations to use public lands or public land natural resources (including cultural, historical, and mineral) and for providing specific services to public land users, and which are not presently being covered into any Bureau of Land Management appropriation accounts, and not otherwise dedicated by law for specific distribution, shall be made immediately available for program operations in this account and remain available until expended.

- Reference: 43 U.S.C. § 1734a (2017)

- There is hereby established a working capital fund for the management of the public lands. This fund shall be available without fiscal year limitation for expenses necessary for furnishing, in accordance with chapters 1 to 11 of Title 40 and decision C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of Title 41, and regulations promulgated thereunder, supplies and equipment services in support of Bureau programs, including but not limited to, the purchase or construction of storage facilities, equipment yards, and related improvements and the purchase, lease, or rent of motor vehicles, aircraft, heavy equipment, and fire control and other resource management equipment within the limitations set forth in appropriations made to the Secretary for the Bureau. The initial capital of the fund shall consist of appropriations made for that purpose together with the fair and reasonable value at the fund's inception of the inventories, equipment, receivables, and other assets, less the liabilities, transferred to the fund. The Secretary is authorized to make such subsequent transfers to the fund as he deems appropriate in connection with the functions to be carried on through the fund. The fund shall be credited with payments from appropriations, and funds of the Bureau, other agencies of the Department of the Interior, other Federal agencies, and other sources, as authorized by law, at rates approximately equal to the cost of furnishing the facilities, supplies, equipment, and services (including depreciation and accrued annual leave). Such payments may be made in advance in connection with firm orders, or by way of reimbursement.

- Reference: 43 U.S.C. § 1736 (2017)

- There is hereby established in the Treasury of the United States a special fund to be derived on and after October 5, 1992, from the Federal share of moneys received from the disposal of salvage timber prepared from sale from lands under the jurisdiction of the Bureau of Land Management, Department of the Interior. The money in this fund shall be immediately available to the Bureau of Land Management without further appropriation, for purposes of planning and preparing salvage timber for disposal, the administration of salvage timber sales, and subsequent site preparation and reforestation.

- Reference: 43 U.S.C. § 1736a (2017)

*Reporting Requirements:* The Secretary shall . . . report to the Congress on June 1 of each calendar year with respect to such disclosures [of financial interests by offices or employees of the Secretary and the Bureau] and the actions taken regard thereto during the preceding calendar year.

- Reference: 43 U.S.C. § 1743(b)(2) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **Bureau of Ocean Energy Management**

*Date of Creation:* May 19, 2010<sup>308</sup>

*Statute:* Not established in U.S. Code

## **Bureau of Reclamation**

*Date of Creation:* June 17, 1902<sup>309</sup>

*Statute:* 43 U.S.C. §§ 371-390h-39; 1457 (2017)

*Authorizing Language:* The Secretary of the Interior is charged with the supervision of public businesses relating to the following subjects and agencies: . . .Bureau of Reclamation.

- Reference: 43 U.S.C. § 1457 (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* Under the supervision and direction of the Secretary of the Interior, the reclamation of arid lands under the Act of June 17, 1902, and Acts amendatory thereof and supplementary thereto, shall be administered by a Commissioner of Reclamation who shall be appointed by the President by and with the advice and consent of the Senate.

- Reference: 43 U.S.C. § 373a (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* Whenever in the opinion of the Secretary of the Interior any lands which have been acquired under the provisions of the Act of June 17, 1902, commonly called the "Reclamation Act" or under the provisions of any act amendatory thereof or supplementary thereto, for any irrigation works contemplated by the reclamation law are not needed for the purposes for which they were acquired, said Secretary of the Interior may cause said lands, together with the improvements thereon, to be appraised by three disinterested persons, to be appointed by him, and thereafter to sell the same for not less than the appraised value at public auction to the highest bidder, after giving public notice of the time and place of sale by posting upon the land and by publication for not less than thirty days in a newspaper of general circulation in the vicinity of the land. Upon payment of the purchase price, the Secretary of the Interior is authorized by appropriate deed to convey all the right, title, and interest of the United States of, in, and to said lands to the purchaser at said sale, subject, however to such reservations, limitations, or conditions as said Secretary may deem proper: Provided that not over one hundred and sixty acres shall be sold to any one person. The moneys

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<sup>308</sup> Secretary of the Interior Order No. 3299.

<sup>309</sup> Pub. L. No. 161, 32 Stat. 388 (1902).

derived from the sale of such lands shall be covered into the reclamation fund and be placed to the credit of the project for which such lands had been acquired.

- Reference: 43 U.S.C. § 374 (2017)
- Whenever in the opinion of the Secretary of the Interior any public lands which have been withdrawn for or in connection with construction or operation of reclamation projects under the provisions of the Act of June 17, 1902, known as the Reclamation Act and acts amendatory thereof and supplementary thereto, which are not otherwise reserved and which have been improved by and at the expense of the reclamation fund for administration or other like purposes, are no longer needed for the purposes for which they were withdrawn and improved, the Secretary of the Interior may cause said lands, together with the improvements thereon, to be appraised by three disinterested persons to be appointed by him, and thereafter sell the same, for not less than the appraised value, at public auction to the highest bidder, after giving public notice of the time and place of sale by posting upon the land and by publication for not less than thirty days in a newspaper of general circulation in the vicinity of the land; not less than one-fifth the purchase price shall be paid at the time of sale, and the remainder in not more than four annual payments with interest at 6 per centum per annum, payable annually, on deferred payments. Upon payment of the purchase price the Secretary of the Interior is authorized, by appropriate patent, to convey all the right, title, and interest of the United States in and to said lands to the purchaser at said sale, subject, however, to such reservations, limitations, or conditions as said Secretary may deem proper: Provided, That not over one hundred and sixty acres shall be sold to any one person, and if said lands are irrigable under the project in which located they shall be sold subject to compliance by the purchaser with all the terms, conditions, and limitations of the reclamation law applicable to lands of that character: *Provided*, That the accepted bidder must, prior to issuance of patent, furnish satisfactory evidence that he or she is a citizen of the United States. The moneys derived from the sale of such lands shall be covered into the reclamation fund and be placed to the credit of the project for which such lands had been withdrawn.
  - Reference: 43 U.S.C. § 375 (2017)
- The moneys derived from the sale of such lands [small tracts] shall be covered into the reclamation fund and be placed to the credit of the project on which such lands are located.
  - Reference: 43 U.S.C. § 375e (2017)

*Reporting Requirements:* The Secretary shall report annually to the Natural Resources Committee of the House of Representatives and the Energy and Natural Resources Committee of the Senate on [Bureau of Reclamation] site security actions and activities undertaken pursuant to this Act for each fiscal year.

- Reference: 43 U.S.C. § 373e(c)(5) (2017)
- Within twelve months after the initiation of phase II [of the groundwater recharge demonstration program implemented by the Bureau], and at annual intervals thereafter, the Secretary shall submit interim reports to Congress. Each report shall contain a detailed statement of his findings and progress respecting the design, construction, and operation of the demonstration projects referred to in subsection (a) of this section and the study referred to in subsection (b) of this section.
  - Reference: 43 U.S.C. § 390g-2(c)(1) (2017)

- Within five years after the initiation of phase II [of the groundwater recharge demonstration program implemented by the Bureau], the Secretary shall submit a summary report to Congress. The summary report shall contain a detailed evaluation for the demonstration projects referred to in subsection (a) of this section; the results of the studies referred to in subsection (b) of this section; specific recommendations regarding the location, scope, and feasibility of operational groundwater recharge projects to be constructed and maintained by the Bureau, and an evaluation of the feasibility of integrating these groundwater recharge projects into existing reclamation projects.
  - Reference: 43 U.S.C. § 390g-2(c)(2) (2017)
- At the conclusion of phase II, the Secretary shall submit a final report to the Congress which shall include, but not be limited to, a detailed evaluation of the projects under this section.
  - Reference: 43 U.S.C. § 390g-2(c)(5) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* Modifications of a reservoir project heretofore authorized, surveyed, planned, or constructed to include shortage as provided in subsection (b) of this section which would seriously affect the purposes for which the project was authorized, surveyed, planned, or constructed, or which would involve major structural or operational charges shall be made only upon the approval of Congress as now provided by law.

- Reference: 43 U.S.C. § 390b(e) (2017)
- The Secretary, acting through the Bureau, and the Administrator of the Environmental Protection Agency, shall enter into a memorandum-of-understanding to provide for an evaluation of the impacts to surface water and groundwater quality resulting from the groundwater recharge demonstration projects constructed pursuant to sections 390g to 390g-8 of this title.
  - Reference: 43 U.S.C. § 390g-3 (2017)

*Legislative Veto:* None

*Adjudication:* None

### **Bureau of Safety and Environmental Enforcement**

*Date of Creation:* May 19, 2010<sup>310</sup>

*Statute:* Not established in U.S. Code

### **National Indian Gaming Commission**

*Date of Creation:* October 17, 1988<sup>311</sup>

*Statute:* 25 U.S.C. §§ 2701-2721 (2017)

*Authorizing Language:* There is established within the Department of the Interior a Commission to be known as the National Indian Gaming Commission.

- Reference: 25 U.S.C. § 2704(a) (2017)

*Commissioners/Board Members:* The Commission shall be composed of three full-time members who shall be appointed as follows: a Chairman, who shall be appointed by the President

<sup>310</sup> Secretary of the Interior Order No. 3299.

<sup>311</sup> Indian Gaming Regulatory Act, Pub. L. No. 100-497, 102 Stat. 2467 (1988).

with the advice and consent of the Senate and two associate members who shall be appointed by the Secretary of the Interior.

- Reference: 25 U.S.C. § 2704(b)(1) (2017)

*Quorum Rules:* Two members of the Commission, at least one of which is the Chairman or Vice Chairman, shall constitute a quorum.

- Reference: 25 U.S.C. § 2704(d) (2017)

*Agency Specific Personnel:* The Chairman shall appoint and supervise other staff of the Commission without regard to the provisions of Title 5 governing appointments in the competitive service. Such staff shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-17 of the General Schedule under section 5332 of that title.

- Reference: 25 U.S.C. § 2707(b) (2017)

*Limitation on Appointment:* At least two members of the commission shall be enrolled members of any Indian tribe.

- Reference: 25 U.S.C. § 2704(b)(3) (2017)
- No individual shall be eligible for any appoint to, or to continue serve on, the Commission who has been convicted of a felony or gaming offense; has any financial interest in, or management responsibility for, any gaming activity; or has a financial interest in, or management responsibility for, any management contract approved pursuant to section 2711 of this title.
- Reference: 25 U.S.C. § 2704(b)(5) (2017)

*Party Balancing:* Not more than two members of the Commissions shall be of the same political parties.

- Reference: 25 U.S.C. § 2704(b)(3) (2017)

*Fixed Terms:* The term of office of the members of the Commission shall be three years.

- Reference: 25 U.S.C. § 2704(b)(4)(A) (2017)

*Staggered Terms:* Of the initial members of the Commission two members, including the Chairman, shall have a term of office of three years and one member shall have a term of office of one year.

- Reference: 25 U.S.C. § 2704(b)(4)(B) (2017)

*For Cause:* A Commissioner may only be removed from office before the expiration of the term of office of the member by the President (or, in the case of associate member, by the Secretary) for neglect of duty, or malfeasance in office, or for other good cause shown.

- Reference: 25 U.S.C. § 2704(b)(6) (2017)

*Serve President:* None

*Continuation until Replacement:* A member may serve after the expiration of his term of office until his successor has been appointed, unless the member has been removed for cause under subsection (b)(6) of this section.

- Reference: 25 U.S.C. § 2704(c) (2017)

*Acting Service Rules:* The Commission shall select, by majority vote, one of the members of the Commission to serve as Vice Chairman. The Vice Chairman shall serve as Chairman during meetings of the Commission in the absence of the Chairman.

- Reference: 25 U.S.C. § 2704(e) (2017)

*Who is Head of Agency:* [The] Chairman, who shall be appointed by the President with the advice and consent of the Senate.

- Reference: 25 U.S.C. § 2704(b)(1)(A) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The Commission shall establish a schedule of fees to be paid to the Commission annually by each gaming operation that conducts a class II or class III gaming activity that is regulated by this chapter. . .to the extent that revenue derived from fees imposed under the schedule established under paragraph (1) are not expended or committed at the close of any fiscal year, such surplus funds shall be credited to each gaming activity on a pro rata basis against such fees imposed for the succeeding year.

- Reference: 25 U.S.C. § 2717(a) (2017)
- The Commission, in coordination with the Secretary and in conjunction with the fiscal year of the United States, shall adopt an annual budget for the expenses and operation of the Commission. The budget of the Commission may include a request for appropriations, as authorized by section 2718 of this title, in an amount equal the amount of funds from assessments authorized by subsection (a) of this section for the fiscal year preceding the fiscal year for which the appropriation request is made.
  - Reference: 25 U.S.C. § 2717(b) (2017)
- In fiscal year 1990 and thereafter, fees collected pursuant to and as limited by section 2717 of this title shall be available to carry out the duties of the Commission, to remain available until expended.
  - Reference: 25 U.S.C. § 2717a (2017)

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* The request for appropriations pursuant to paragraph (2) shall be subject to the approval of the Secretary and shall be included as a part of the budget request of the Department of the Interior.

- Reference: 25 U.S.C. § 2717(b)(3) (2017)

*Legislative Veto:* None

*Adjudication:* None

### **National Park Service**

*Date of Creation:* August 25, 1916<sup>312</sup>

*Statute:* 54 U.S.C. §§ 100101-104907 (2017)

*Authorizing Language:* There is in the Department of the Interior a service called the National Park Service.

- Reference: 54 U.S.C. § 100301 (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* The Director shall have substantial experience and demonstrated competence in land management and natural or cultural resource conservation.

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<sup>312</sup> Pub. L. No. 235, 39 Stat. 535 (1916).

- Reference: 54 U.S.C. § 100302(a)(2) (2017)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The Service shall be under the charge of a director who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 54 U.S.C. § 100302(a)(1) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* Response costs and damages recovered by the Secretary under this subchapter or amounts recovered by the Federal Government under any Federal, State, or local law or regulation or otherwise as a result of destruction, loss of, or injury to any System unit resource shall be available to the Secretary and without further Congressional action may be used only as follows: to reimburse response costs and damage assessments by the Secretary or other Federal agencies as the Secretary considers appropriate; to restore, replace, or acquire the equivalent of System unit resources that were the subject of the action and to monitor and study those System unit resources. The funds may not be used to acquire land or water, interest in land or water, or right to land or water unless the acquisition is specifically approved in advance in appropriations Acts. The acquisition shall be subject to any limitations contained in the legislation establishing the System unit. Any amounts remaining after expenditures pursuant to paragraphs (1) and (2) of subsection (a) shall be deposited in the Treasury.

- Reference: 54 U.S.C. § 100724 (2017)
- The Secretary may accept donations of money or services for expenditure or employment to meet expected, immediate, or ongoing response costs [to System unit Resources]. The donations may be expended or employed at any time after their acceptance, without further Congressional action.
  - Reference: 54 U.S.C. § 100725 (2017)
- The Secretary may operate, repair, maintain, and replace motor and other equipment on a reimbursable basis when the equipment is used on Federal projects of the System, chargeable to other appropriations, or on work of other Federal agencies, when requested by the agencies. Reimbursement shall be . . . credited to appropriations currently available at the time adjustment is effected.
  - Reference: 54 U.S.C. § 100901(h) (2017)
- The Secretary may rent equipment for fire purposes to State, county, private, or other non-Federal agencies that cooperate with the Secretary in the administration of the System and other areas in fire control. The rental shall be under the terms of written cooperative agreements. The amount collected for the rentals shall be credited to appropriations currently available at the time payment is received.
  - Reference: 54 U.S.C. § 100901(h)(3) (2017)
- Notwithstanding section 107 of the Department of the Interior and Related Agencies Appropriations Act, 1998, the Secretary shall withhold from the special account under

section 807(a) of the Federal Lands Recreation Enhancement Act 100 percent of the fees and charges collected in connection with any System unit at which entrance fees or admission fees cannot be collected by reason of deed restrictions. Amounts withheld under paragraph (1) shall be retained by the Secretary and shall be available, without further appropriation, for expenditure by the Secretary for the System unit with respect to which the amounts were collected with for the purposes of enhancing the quality of the visitor experience, protection of resources, repair and maintenance, interpretation, signage, habitat or facility enhancement, resource preservation, annual operation (including fee collection), maintenance, and law enforcement.

- Reference: 54 U.S.C. § 100904(a) (2017)
- Where the Service provides transportation to view all or a portion of any System unit, the Director may impose a charge for the service in lieu of an admission fee under this section. Notwithstanding any other provision of law, half of the charges imposed under paragraph (1) shall be retained by the System unit at which the service was provided. The remainder shall be deposited in the same manner as receipts from fees collected pursuant to this section. Fifty percent of the amount retained shall be expended only for maintenance of transportation systems at the System unit where the charge was imposed. The remaining 50 percent of the retained amount shall be expended only for activities related to resource protection at those System units.
  - Reference: 54 U.S.C. § 100904(d) (2017)
- The Secretary shall require a permit and shall establish a reasonable fee for commercial filming activities or similar projects in a System unit. . . All fees collected under this section shall be available for expenditure by the Secretary, without further appropriation and shall remain available until expended. All costs recovered under this section shall be available for expenditure by the Secretary, without further appropriation, at the site where the costs are collected and shall remain available until expended.
  - Reference: 54 U.S.C. § 100905 (2017)
- The Secretary in administration of the Service may accept patented land, rights of way over patented land or other land, buildings, or other property within a System unit and money that may be donated for the purposes of the System.
  - Reference: 54 U.S.C. § 101101 (2017)
- The Secretary may accept and use funds that may be donated in order to consolidate Federal land ownership within the existing boundaries of any System unit and encourage the donation of funds for that purpose, subject to the condition that donated funds are to be expended for the purposes of this section only if Federal funds in an amount equal to the amount of the donated funds are appropriated for the purposes of this section.
  - Reference: 54 U.S.C. § 101102 (2017)
- The proceeds from any lease under section 101335(a)(1) of this title [joint public-private sector housing program] and any lease under section 101337 of this title [leasing of seasonal employee quarters] shall be retained by the Service and deposited in the special fund established for maintenance and operation of quarters.
  - Reference: 54 U.S.C. § 101338 (2017)
- Notwithstanding any other provision of law, where the Service or an entity under a service contract, cooperative agreement, or other contractual agreement with the Service provides transportation to all or a portion of any System unit, the Secretary may impose and appropriate charge to the public for the use of the transportation services in addition

to any admission fee required to be paid. Collection of the transportation and admission fees may occur at the transportation staging area or any other reasonably convenient location determined by the Secretary. The Secretary may enter into agreements, with public or private entities that qualify to the Secretary's satisfaction, to collect the transportation and admission fee. Transportation fees collected pursuant to this section shall be retained by the System unit at which the transportation fee was collected, and the amount retained shall be expended only for costs associated with the transportation systems at the System unit where the charge was imposed.

- Reference: 54 U.S.C. § 101531 (2017)
- To facilitate the administration of the System, the Secretary, under such terms and conditions as the Secretary considers advisable, may sell at fair market value, without regard to the requirements of chapters 1 to 11 of Title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of substitute I of title 41, products and services produced in the conduct of living exhibits and interpretic demonstrations in System units; enter into contracts, including cooperative arrangements, with respect to living exhibits and interpretive demonstrations in System units; and credit the proceeds from those sales and contracts to the appropriation bearing the cost of the exhibits and demonstrations.
  - Reference: 54 U.S.C. § 101702(c) (2017)
- In carrying out work under reimbursable agreements with any State, local, or tribal government, the Secretary, without regard to any provision of law or a regulation may record obligations against accounts receivable from those governments and shall credit amounts received from those governments to the appropriate account. Amounts shall be credited within 90 days after the date of the original request by the Service for payment.
  - Reference: 54 U.S.C. § 101704 (2017)
- To facilitate the administration of the System, the Secretary, under such terms and conditions as the Secretary considers advisable, may furnish, on a reimbursement of appropriation basis, all types of utility services to concessioners, contractors, permittees, or other users of the services, within the System. The reimbursements for cost of the services may be credited to the appropriation current at the time reimbursements are received.
  - Reference: 54 U.S.C. § 101901 (2017)
- All franchise fees (and other monetary consideration) paid to the United States pursuant to concession contracts shall be deposited in a special account established in the Treasury. Twenty percent of the funds deposited in the special account shall be available for expenditure by the Secretary, without further appropriation, to support activities throughout the System regardless of the System unit in which the funds were collected. The funds deposited in the special account shall remain available until expended. There shall be established within the special account a subaccount for each system unit. Each subaccount shall be credited with 80 percent of the franchise fees (and other monetary consideration) collected at a single System unit under concession contracts. The funds credited to the subaccount for a System unit shall be available for expenditure by the Secretary, without further appropriation, for use at the System unit for visitor services and for purposes of funding high-priority and urgently necessary resource management programs and operations. The funds credited to a subaccount shall remain available until expended.

- Reference: 54 U.S.C. § 101917(c) (2017)
- There is established a revolving fund that shall be available to the Secretary without fiscal year limitation for expenses necessary for the management, improvement, enhancement, operation, construction, and maintenance of commercial visitor services and facilities [of the National Park Service] and payment of possessory interest and leasehold surrender interest. Funds collected by the Secretary pursuant to the contracts awarded under this subchapter shall be credited to the revolving fund. The Secretary is authorized to transfer to the revolving fund, without reimbursement, any additional funds or revenue in connection with the functions to be carried out under this subchapter. Amounts in the revolving fund shall be used by the Secretary in furtherance of the purposes of this title. No funds from this account may be used to decrease the availability of services and programs to the public.
  - Reference: 54 U.S.C. § 101935 (2017)
- Rental payments under a lease under subsection (a) [lease with any person or government entity for the use of buildings and associated property administered by the Secretary as part of the System] shall be deposited in a special account in the Treasury. Amounts in the special account shall be available until expended, without further appropriation, for infrastructure needs at System units, including facility refurbishment; repair and replacement; infrastructure projects associated with System unit resource protection; and direct maintenance of the leased buildings and associated property.
  - Reference: 54 U.S.C. § 102102(e) (2017)
- The Secretary may accept donations and bequests of money or other personal property, and hold, use, expend, and administer the money or other personal property for purposes of this chapter [museums established within System units].
  - Reference: 54 U.S.C. § 102503(b) (2017)
- The Secretary may aid visitors within a System unit in an emergency, when no other source is available for the procurement of food or supplies, by the sale, at cost, of food or supplies in quantities sufficient to enable the visitors to reach safely a point where food or supplies can be purchased. Receipts from the sales shall be deposited as a refund to the appropriation current at the date of the deposited and shall be available for the purchase of similar food or supplies. The Secretary may in an emergency, when no other source is available for the immediate procurement of supplies, materials, or special services, aid grantees, permittees, or licenses conducting operations for the benefit of the public in a System unit by the sale, at cost, including transportation and handling, of supplies, materials, or special services as may be necessary to relieve the emergency and ensure uninterrupted service to the public. Receipts from the sales shall be deposited as a refund to the appropriation current at the date of the deposit and shall be available for expenditure for System unit purposes.
  - Reference: 54 U.S.C. § 102712 (2017)
- The proceeds received from any conveyance [of property and interests in property in System units or related areas] under this section shall be credited to the Land and Water Conservation Fund.
  - Reference: 54 U.S.C. § 102901(c) (2017)
- Cash collections and payroll deductions made for meals and quarters furnished by the Service to employees of the Federal Government in the field and to cooperating agencies

may be credited as a reimbursement to the current appropriation from the administration of the System unit in which the accommodations are furnished.

- Reference: 54 U.S.C. § 103101(a) (2017)
- Notwithstanding any other provision of law, amounts provided to the Service by private entities for utility services shall be credited to the appropriate account and remain available until expended.
  - Reference: 54 U.S.C. § 103103 (2017)
- Notwithstanding any other provision of law, the Service may recover all costs of providing necessary services associated with special use permits. The reimbursements shall be credited to the appropriation current at that time.
  - Reference: 54 U.S.C. § 103104 (2017)
- There is established in the Treasury an account to be known as the National Park Centennial Challenge Fund. All amounts received by the United States each fiscal year from sales by the National Park Service of National Parks and Federal Recreational Lands Passes under section 805(b)(1) of the Federal Lands Recreation Enhancement Act that are in excess of \$10,000,000 shall be deposited into the National Park Challenge Fund as offsetting collections and shall remain available to the Secretary until expended. Funds collected and deposited into the National Park Centennial Challenge Fund shall be used for projects or programs approved by the Secretary to further the mission of the Service and to enhance the visitor experience in System units; may not be used to acquire lands or interest in lands; and may only be used if matched, on at least a 1-to-1 basis, by non-Federal donations (including funds and fairly valued durable goods and materials) to the Service for signature projects or programs.
  - Reference: 54 U.S.C. § 103501 (2017)

*Reporting Requirements:* General management plans for the preservation and use of each System unit, including areas within the national capital area, shall be prepared and revised in a timely manner by the Director. On January 1 of each year, the Secretary shall submit to Congress a list indicating the current status of completion or revision of general management plans for each System unit.

- Reference: 54 U.S.C. § 100502 (2017)
- The Secretary shall conduct a systematic and comprehensive review of certain aspects of the System and on a periodic basis (but not less often than every 3 years) submit to the Committee on Natural Resources and the Committee on Appropriations of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate a report on the findings of the review, together with recommendations as the Secretary determines to be necessary.
  - Reference: 54 U.S.C. § 100505(a) (2017)
- When the Secretary determines that to do so will contribute to, and is necessary for, the proper preservation, protection, interpretation, or management of a System unit, the Secretary may, following timely notice in writing to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate of the Secretary's intention to do so, and by publication of a revised boundary map or other description in the Federal Register, make minor changes to the boundary of the System unit, and amounts appropriated from the Fund shall be available for acquisition of any land, water, and interests in land or water added to the System unit by the boundary change subject to such statutory limitations, if any, on methods of

acquisition and appropriations thereof as may be specifically applicable to the System unit and acquire by donation, purchase with donated funds, transfer from any other Federal agency, or exchange, land, water, or interests in land or water adjacent to the System unit.

- Reference: 54 U.S.C. § 100506(c)(1) (2017)
- At the beginning of each calendar year, with the annual budget submission, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a list of areas recommended for study for potential inclusion in the System.
  - Reference: 54 U.S.C. § 100507(b)(1) (2017)
- At the beginning of each calendar year, with the annual budget submission, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, in numerical order of priority for addition to the System, a list of areas that have been previously studied that contain primarily historical resources and a list of areas that have been previously studied that contain primarily natural resources.
  - Reference: 54 U.S.C. § 100507(d) (2017)
- At the beginning of each fiscal year, the Secretary shall submit to the Speaker of the House of Representatives and the President of the Senate a complete and current list of all areas listed on the Registry of Natural Landmarks, and areas of national significance listed on the National Register of Historic places, that exhibit known or anticipated damage or threats to the integrity of their resources, with notations as to the nature and severity of the damage or threats.
  - Reference: 54 U.S.C. § 100507(e) (2017)
- Prior to consummating a relinquishment under subsection (a) [of legislative jurisdiction of the United States over System land or interests], the Secretary shall submit the proposed agreement to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives. The Secretary shall not finalize the agreement until 60 calendar days after the submission has elapsed.
  - Reference: 54 U.S.C. § 100754 (2017)
- Prior to the implementation of any project developed pursuant to the transportation plan formulated pursuant to subsection (a) [transportation projects at System units], the Secretary shall . . . when the proposed project will involve an expenditure in excess of \$100,000 in any fiscal year, submit a detailed report to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives. When a report on a project is required under subsection (b)(2), the Secretary may proceed with the implementation of the project only after 60 days (not counting days on which the Senate or House of Representatives has adjourned for more than 3 consecutive days) have elapsed following submission of the report.
  - Reference: 54 U.S.C. § 101523 (2017)
- The Secretary shall submit any proposed concession contract [to authorize a person, corporation, or other entity to provide accommodations, facilities, and services to visitors to System units] with anticipated annual gross receipts in excess of \$5,000,000 or a duration of more than 10 years to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The

Secretary shall not award any proposed concession contract to which subparagraph (A) applies until at least 60 days subsequent to the notification of both committees.

- Reference: 54 U.S.C. § 101913(6) (2017)
- The Secretary may award a concession contract [to authorize a person, corporation, or other entity to provide accommodations, facilities, and services to visitors to System units] in extraordinary circumstances where compelling and equitable considerations require the award of a concession contract to a particular party in the public interest. Award of a concession contract under this subparagraph shall not be made by the Secretary until at least 30 days after . . . submission of notice to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives.
  - Reference: 54 U.S.C. § 101913(11)(B) (2017)
- Not later than 6 months after receiving recommendations from the [National Park Concessions Management] Advisory Board regarding concessioner rates and charges to the public [to authorize a person, corporation, or other entity to provide accommodations, facilities, and services to visitors to System units] , the Secretary shall implement the recommendations or report to Congress the reasons for not implementing the recommendations.
  - Reference: 54 U.S.C. § 101916(c) (2017)
- The Secretary shall develop a list of signature projects and programs eligible for funding from the National Park Centennial Challenge Fund; submit the list developed pursuant to paragraph (1) to the Committees on Appropriations and Energy and Natural Resources in the United States Senate, and to the Committees on Appropriations and Natural Resources in the House of Representatives; and prioritize deferred maintenance projects, physical improvements to visitor services facilities and trail maintenance. The Secretary may, from time to time, as the Secretary finds appropriate, add any signature project or program to the list and provide notice of such addition as required by subsection (a).
  - Reference: 54 U.S.C. § 103502 (2017)
- The Secretary shall provide with the submission of the President's annual budget a summary of the status and funding of signature projects and programs.
  - Reference: 54 U.S.C. § 103503 (2017)

*Review Commissions:* None

*Advisory Commissions:* To facilitate the administration of the System, the Secretary, under such terms and conditions as the Secretary may consider advisable, may appoint and establish advisory committees in regard to the functions of the Service as the Secretary considers advisable.

- Reference: 54 U.S.C. § 100906 (2017)
- There is a National Park Service Concessions Management Advisory Board whose purpose shall be to advise the Secretary and Service on matters relating to management of concessions in the system.
  - Reference: 54 U.S.C. § 101919 (2017)
- There is established a National Park System Advisory Board, whose purpose is to advise the Director on matters relating to the Service, the System, and programs administered by the Service. The Board shall advise the Director on matters submitted to the Board by the Director as well as any other issues identified by the Board.
  - Reference: 54 U.S.C. § 102303 (2017)

*Action Require Outside Approval:* None  
*Legislative Veto:* None  
*Adjudication:* None

**Office of Natural Resources Revenue**

*Date of Creation:* May 19, 2010<sup>313</sup>  
*Statute:* Not established in U.S. Code

**Office of Surface Mining Reclamation and Enforcement**

*Date of Creation:* August 3, 1977<sup>314</sup>  
*Statute:* 30 U.S.C. §§ 1201-1328 (2017)

*Authorizing Language:* There is established in the Department of the Interior, the Office of Surface Mining Reclamation and Enforcement.

- Reference: 30 U.S.C. § 1211(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* No employee of the Office or any other Federal employee performing any function or duty under this chapter shall have a direct or indirect financial interest in underground or surface coal mining operations.

- Reference: 30 U.S.C. § 1211(f) (2017)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The Office shall have a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 30 U.S.C. § 1211(b) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* There is created on the books of the Treasury of the United States a trust fund to be known as the Abandoned Mine Reclamation Fund which shall be administered by the Secretary of the Interior. . .The fund shall consist of amounts deposited in the fund, from time to time derived from [reclamation fees levied; user charges; donations; recovered moneys; interest]. Moneys in the fund may be used for the following purposes: [reclamation and restoration of land and water resources adversely affected by past coal mining; acquisition and filling of voids and sealing of tunnels, shafts, etc.; acquisition of land; enforcement and collection of reclamation fees; restoration of adverse effects of coal mining; grants to the States; administrative expenses; etc.] Moneys from the fund for expenditures under subparagraphs (a) through (d) of section 1232(g)(3) of this title shall be available only when appropriated for those

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<sup>313</sup> Secretary of the Interior Order No. 3299.

<sup>314</sup> Surface Mining Control and Reclamation Act of 1977, Pub. L. No. 95-87, 91 Stat. 445 (1977).

subparagraphs. Appropriations described in paragraph (1) shall be made without fiscal year limitation. Moneys from the fund shall be available for all other purposes of this subchapter without prior appropriation as provided in subsection (f) of this section.

- Reference: 30 U.S.C. § 1231 (2017)
- All operators of coal mining operations subject to the provisions of this chapter shall pay to the Secretary of the Interior [operating through the Office], for deposit in the fund, a reclamation fee of 28 cents per ton of coal produced by surface coal mining and 12 cents per ton of coal produced by underground mining or 10 percentum of the value of the coal at the mine, as determined by the Secretary, whichever is less, except that the reclamation fee to lignite coal shall be at a rate of 2 percentum of the value of the coal at the mine, or 8 cents per ton, whichever is less. . . Except as provided in subsection (h) of this section, moneys deposited into the fund shall be allocated by the Secretary to accomplish the purposes of this subchapter as follows: . . . Amounts available in the fund which are not allocated to States and Indian tribes under paragraph (1) or allocated under paragraph (5) are authorized to be expended by the Secretary for [Office activities].
  - Reference: 30 U.S.C. § 1232 (2017)

*Reporting Requirements:* The Secretary shall submit annually to the President and the Congress a report concerning activities conducted by him, the Federal Government, and the States pursuant to this chapter [including activities of the Office].

- Reference: 30 U.S.C. § 1296 (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* A civil penalty shall be assessed by the Secretary [acting through the Office] only after the person charged with a violation described under subsection (a) [violations of permit conditions and statutory provisions] of this section has been given an opportunity for a public hearing. Where such public hearing has been held, the Secretary shall make findings of fact, and he shall issue a written decision as to the occurrence of the violation and the amount of the penalty which is warranted, incorporating, when appropriate, an order therein requiring that the penalty be paid. . . Any hearing under this section shall be made of record and shall be subject to section 554 of title 5.

- Reference: 30 U.S.C. § 1268(b) (2017)
- A permittee issued a notice or order by the Secretary pursuant to the provisions of paragraphs (2) and (3) of subsection (a) of section 1271 of this title [notice of violation, suspension or revocation of permits], or pursuant to a Federal program of the Federal lands program or any person having an interest which is or may be adversely affected by such notice or order or by any modification, vacation, or termination of such notice or order, may apply to the Secretary for review of the notice or order within thirty days of receipt thereof or within thirty days of its modification, vacation, or termination. Upon receipt of such application, the Secretary [acting through the Office], shall cause such investigation to be made as deems appropriate. Such investigation shall provide an opportunity for a public hearing, at the request of the applicant or the person having an interest which is or may be adversely affected, to enable the applicant or such person to present information relating to the issuance and continuance of such notice or order or the

modification, vacation, or termination thereof. . .Any such hearing shall be made of record and shall be subject to section 554 of Title 5.

- Reference: 30 U.S.C. § 1275(a) (2017)
- Following the issuance of an order to show cause as to why a permit should not be suspended or revoked pursuant to section 1271 of this title, the Secretary shall hold a public hearing after giving written notice of the time, place, and date thereof. Any such hearing shall be of record and shall be subject to section 554 of Title 5.
- Reference: 30 U.S.C. § 1275(d) (2017)

### **United States Fish and Wildlife Service**

*Date of Creation:* June 30, 1940<sup>315</sup>

*Statute:* 16 U.S.C. §§ 752a-754e (2017)

*Authorizing Language:* There is established within the Department of the Interior the United States Fish and Wildlife Service.

- Reference: 16 U.S.C. § 742b(b) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* No individual may be appointed as the Director unless he is, by reason of scientific education and experience, knowledgeable in the principles of fisheries and wildlife management.

- Reference: 16 U.S.C. § 742b(b) (2017)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The functions of the United States Fish and Wildlife Service shall be administered under the supervision of the Director, who shall be subject to the supervision of the Assistant Secretary for Fish and Wildlife. The Director of the Fish and Wildlife Service shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 16 U.S.C. § 742b(b) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* In furtherance of the purposes of this Act, the Secretary of the Interior is authorized to accept any gifts, devises, or bequests of real and personal property, or proceeds therefrom, or interests therein, for the benefit of the United States Fish and Wildlife Service, in performing its activities and services. . .Any gifts and bequests of money and proceeds from the sales of other property received as gifts or bequests pursuant to this subsection shall be deposited in a separate account in the

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<sup>315</sup> Reorganization Plan No. III of 1940. The Fish and Wildlife Service traces its origins to the United States Commission on Fish and Fisheries (1871).

Treasury and shall be disbursed upon order of the Secretary for the benefit of programs administered by the United States Fish and Wildlife Service.

- Reference: 16 U.S.C. § 742f(b) (2017)
- On and after October 21, 1998, pursuant to section 9701 of Title 31 and notwithstanding section 3302 of Title 31, the Secretary shall charge reasonable fees for the full costs of the U.S. Fish and Wildlife Service in operating and maintaining the M/V Tiglax and other vessels, to be credited to this account and to be available until expended.
  - Reference: 16 U.S.C. § 746a (2017)
- Notwithstanding any other provision of law, in fiscal year 1999 and thereafter, sums provided by private entities for activities pursuant to reimbursable agreements shall be credited to the “Resource Management” account and shall remain available until expended.
  - Reference: 16 U.S.C. § 754b (2017)
- Before, on, and after November 29, 1999, in carrying out work under reimbursable agreements with any State, local, or tribal government, the United States Fish and Wildlife Service may, without regard to section 1341 of Title 31 and notwithstanding any other provision of law or regulation, record obligations against accounts receivable from such entities, and shall credit amounts received from such entities to this appropriation, such credit to occur within 90 days of the date of the original request by the service for payment.
  - Reference: 16 U.S.C. § 754c (2017)
- In fiscal year 2001 and thereafter and notwithstanding any other provision of law, the United States Fish and Wildlife Service shall establish and implement a fee schedule to permit a return to the Service for forensic laboratory services provided to non-Department of the Interior entities. Fees shall be collected as determined appropriate by the Director of the Fish and Wildlife Service and shall be credited to this appropriation and be available for expenditure without further appropriation until expended.
  - Reference: 16 U.S.C. § 754d (2017)

*Reporting Requirements:* Not later than 1 year after January 4, 2011, and every 5 years thereafter, the Secretary of the Interior shall submit a report to the Committee on Natural Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate evaluating the accomplishments of the volunteer program [for the United States Fish and Wildlife Service], the community partnerships program, and the refuge education programs authorized under this section, and of the National Volunteer Coordination Program [carried out by the Director] and volunteer coordination strategy under section 742f-1(a) of this title and making recommendations to improve the effectiveness of such programs, including regarding implementing subparagraphs (A), (B), and (C) of paragraph (1) of subsection (e)

- Reference: 16 U.S.C. § 742f(f) (2017)
- The Director of the United States Fish and Wildlife Service shall make a report to Congress at the end of any fiscal year that the provisions of this section are utilized [detail of personnel and loan of equipment to Director of Bureau of Sport Fisheries and Wildlife], which describes the use of the provisions of this section, and the additional cost, if any, to the Federal Government resulting therefrom. Such report shall be referred in the Senate to the Committee on Commerce, Science, and Transportation and in the House of Representatives to the Committee on Merchant Marine and Fisheries.

- Reference: 16 U.S.C. § 743a(c) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **United States Geological Survey**

*Date of Creation:* March 3, 1879<sup>316</sup>

*Statute:* 43 U.S.C. §§ 31-50d (2017)

*Authorizing Language:* The . . .United States Geological Survey, which office is hereby established, under the Interior Department.

- Reference: 43 U.S.C. § 31(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* The Secretary of the Interior may authorize one of the geologists to act as Director of the United States Geological Survey in the absence of that officer.

- Reference: 43 U.S.C. § 32 (2017)

*Who is Head of Agency:* The Director of the United States Geological Survey. . .shall be appointed by the President by and with the advice and consent of the Senate. This officer shall have the direction of the United States Geological Survey, and the classification of the public lands and examination of the geological structure, mineral resources, and products of the national domain.

- Reference: 43 U.S.C. § 31(a) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The Director of the United States Geological Survey, under the general supervision of the Secretary of the Interior, is authorized to acquire for the United States, by gift or devise, scientific or technical books, manuscripts, maps, and related materials, and to deposit the same in the library of the United States Geological Survey for reference and use as authorized by law.

- Reference: 43 U.S.C. § 36a (2017)
- The Secretary of the Interior may, on behalf of the United States and for use by the United States Geological Survey in gaging streams and underground water resources, acquire lands by donation or when funds have been appropriated by Congress by

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<sup>316</sup> Organic Act, 20 Stat. 394 (1879).

purchase or condemnation, but not in excess of ten acres for any one stream gaging station or observation well site.

- Reference: 43 U.S.C. § 36b (2017)
- In fiscal year 1987 and thereafter the United States Geological Survey is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private.
  - Reference: 43 U.S.C. § 36c (2017)
- In fiscal year 1984 and thereafter, all receipts from the sale of maps sold or stored by the United States Geological Survey shall be available for map printing and distribution to supplement funds otherwise available, to remain available until expended.
  - Reference: 43 U.S.C. § 42a (2017)
- The Director of the United States Geological Survey on and after March 4, 1909 may produce and sell on a reimbursable basis to interested persons, concerns, and institutions, copies of aerial or other photographs and mosaics that have been obtained in connection with the authorized work of the United States Geological Survey and photographic or photostatic reproductions of records in the official custody of the Director at such prices (not less than the estimated cost of furnishing such copies or reproductions) as the Director, with the approval of the Secretary of the Interior, may determine, the money received from such sales to be deposited in the Treasury to the credit of the appropriation then current and chargeable for the cost of furnishing copies or reproductions as herein authorized.
  - Reference: 43 U.S.C. § 45 (2017)
- There is hereby established in the Treasury of the United States a working capital fund to assist in the management of certain support activities of the United States Geological Survey, Department of the Interior. The fund shall be available on and after November 5, 1990, without fiscal year limitation for expenses necessary for furnishing materials, supplies, equipment, work, facilities, and services in support of Survey programs, and, as authorized by law, to agencies of the Federal Government and others. . . There are authorized to be transferred to the fund, at fair and reasonable values at the time of transfer, inventories, equipment, receivables, and other assets, less liabilities, related to the functions to be financed by the fund as determined by the Secretary of the Interior: Provided, That the fund shall be credited with appropriations and other funds of the Survey, and other agencies of the Department of the Interior, other Federal agencies, and other sources, providing materials, supplies, equipment, work, and services as authorized by law and such payments may be made in advance or upon performance: Provided further, That charges to users will be at rates approximately equal to the costs of furnishing the materials, supplies, equipment, facilities, and services, including such items as depreciation of equipment and facilities, and accrued annual leave: Provided further, That all existing balances as of November 5, 1990, from amortization fees resulting from the Survey providing telecommunications services and deposited in a special fund established on the books of the Treasury and available for payment of replacement or expansion of telecommunications services as authorized by Public Law 99-190, are hereby transferred to and merged with the working capital fund, to be used for the same purposes as originally authorized.
  - Reference: 43 U.S.C. § 50a (2017)

- Before, on, and after October 18, 1986, in carrying out work involving cooperation with any State, Territory, possession, or political subdivision thereof, the United States Geological Survey may, notwithstanding any other provision of law, record obligations against account receivable from any such entities and shall credit amounts received from such entities to this appropriation.

- Reference: 43 U.S.C. § 50b (2017)

*Reporting Requirements:* In carrying out this paragraph [developing national priorities and standards for the geological mapping program], the Secretary, acting through the Director, shall submit biennially a report to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Resources of the House of Representatives identifying how the Survey and the Association are coordinating the development and implementation of the geologic mapping program; how the Survey and the Association establish goals, mapping priorities, and target dates for implementation of the geologic mapping program; and how long-term staffing plans for the various components of the geologic mapping program affect successful implementation of the geologic mapping program.

- Reference: 43 U.S.C. § 31c(b)(1)(C) (2017)

- Not later than 3 years after March 30, 2009 and biennially thereafter, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that describes the status of the national geologic mapping program [as implemented by the Survey]; describes and evaluates the progress achieved during the preceding 2 years in developing the national geologic map database; and includes any recommendations that the Secretary may have for legislative or other action to achieve the purposes of section 31c through 31f of this title.

- Reference: 43 U.S.C. § 31g (2017)

- On copy of each map and at last [produced by the Survey] shall be sent to each Senator and each Representative and Delegate in Congress, if published within his term; and a second copy shall be placed at the disposal of each such Senator, Representative, and Delegate.

- Reference: 43 U.S.C. § 43 (2017)

*Review Commissions:* None

*Advisory Commissions:* There shall be established a 11-member geologic mapping advisory committee to advise the Director of planning and implementation of the geologic mapping program.

- Reference: 43 U.S.C. § 31d (2017)

*Action Require Outside Approval:* The Director of the United States Geological Survey is authorized and directed, on the approval of the Secretary of the Interior, to dispose of the topographic and geologic maps and atlases of the United States, made and published by the United States Geological Survey, at such prices and under such regulations as may from time to time be fixed by him and approved by the Secretary of the Interior.

- Reference: 43 U.S.C. § 42 (2017)

*Legislative Veto:* None

*Adjudication:* None

## DEPARTMENT OF THE TREASURY

*Date of Creation:* September 2, 1789<sup>317</sup>

*Statute:* 31 U.S.C. §§ 301-333

*Authorizing Language:* The Department of the Treasury is an executive department of the United States Government at the seat of the Government.

- Reference: 31 U.S.C. § 301(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* Without regard to those provisions of title 5 governing appointment in the competitive service, the Secretary may appoint not more than 5 Assistant General Counsels.

- Reference: 31 U.S.C. § 301(f)(1) (2017)

*Limitation on Appointment:* The Secretary of the Treasury and the Treasurer may not be involved in trade or commerce; own any part of a vessel (except a pleasure vessel); buy or hold as a beneficiary in trust public property; be involved in buying or disposing of obligations of a State or the United States Government; and personally take or use a benefit gained from conducting business of the Department of the Treasury except as authorized by law.

- Reference: 31 U.S.C. § 329(a)(1) (2017)
- An officer or employee of the Department (except the Secretary or Treasurer) may not carry on a trade or business in the funds, debts, or property of a State or the Government and personally use a benefit gained from conducting business of the Department.
  - Reference: 31 U.S.C. § 329(b)(1) (2017)

*Party Balancing:* N/A

*Fixed Terms:* The term of the Director [of the United States Mint] is 5 years.

- Reference: 31 U.S.C. § 304(b)(1)

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None<sup>318</sup>

*Acting Service Rules:* The Deputy Secretary shall carry out . . .the duties and powers of the Secretary when the Secretary is absent or unable to serve or when the office of the Secretary is vacant.

- Reference: 31 U.S.C. § 301(c)(2) (2017)

*Who is Head of Agency:* The head of the Department is the Secretary of the Treasury. The Secretary is appointed by the President, by and with the advice and consent of the Senate.

- Reference: 31 U.S.C. § 301(b) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The Secretary of the Treasury may accept, hold, administer, and use gifts and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Department of the Treasury. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited

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<sup>317</sup> 1 Stat. 65 (1789).

<sup>318</sup> When the term of office of an officer of the Department of the Treasury ends, that officer may continue to serve until a successor is appointed and qualified. 31 U.S.C. § 315 (2017)

in the Treasury in a separate fund and shall be disbursed on order of the Secretary of the Treasury.

- Reference: 31 U.S.C. § 321(d)(1) (2017)
- The Department of the Treasury has a working capital fund. Amounts in the fund are available for expenses of operating and maintaining common administrative services of the Department that the Secretary of the Treasury, with the approval of the Director of the Office of Management and Budget, decides may be carried out more advantageously and more economically as central services. Amounts in the fund remain available until expended. Amounts may be appropriated to the fund. The Fund consists of amounts appropriated to the fund; to the extent transferred to the fund by the Secretary, the reasonable value of supply inventories, equipment, and other assets and inventories on order for providing services out of amounts in the fund, less related liabilities and unpaid obligations; amounts received from the sale or exchange of property; and payments received for loss or damage to property of the fund.
  - Reference: 31 U.S.C. § 322 (2017)
- When the Secretary of the Treasury provides a service for an agency (except the Department of the Treasury) for which amounts have not been appropriated to the Department, the agency may advance for credit or reimburse the Department the amounts necessary to provide the service. Notwithstanding section 3302 of this title, amounts advanced or reimbursed may be credited to the appropriation of the Department that is current when the service is provided.
  - Reference: 31 U.S.C. § 327(b) (2017)

*Reporting Requirements:* The Undersecretary for Terrorism and Financial Crimes and the Assistant Secretary for Terrorist Financing shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives not later than 72 hours after proposing by rule, regulation, order, or otherwise, any measure to reorganize the structure of the Department for combatting money laundering and terrorist financing, before any such proposal becomes effective.

- Reference: 31 U.S.C. § 312(a)(5) (2017)
- Upon making any determination under paragraph (1) [that a state insurance measure is preempted], the Director [of the Federal Insurance Office] shall . . . notify the Committees on Financial Services and Ways and Means of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Finance of the Senate.
  - Reference: 31 U.S.C. § 313(f)(2)(c)(iii) (2017)
- Beginning September 30, 2011, the Director [of the Federal Insurance Office] shall submit a report on or before September 30 of each calendar year to the President and to the Committees on Financial Services and Ways and Means of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Finance of the Senate on any actions taken by the Office pursuant to subsection (f) (regarding preemption of inconsistent State insurance measures).
  - Reference: 31 U.S.C. § 313(n)(1) (2017)
- Beginning September 30, 2011, the Director [of the Federal Insurance Office] shall submit a report on or before September 30 of each calendar year to the President and to the Committees on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the insurance

industry and any other information as deemed relevant by the Director or requested by such Committees.

- Reference: 31 U.S.C. § 313(n)(2) (2017)
- Before initiating negotiations to enter into a covered agreement under subsection (a), during such negotiations, and before entering into any such agreement, the Secretary and the United States Trade Representatives shall jointly consult with the Committee on Financial Services and the Committee on Ways and Means of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Finance of the Senate.
  - Reference: 31 U.S.C. § 314(b)(1) (2017)
- A covered agreement under subsection (a) may enter into force with respect to the United States only if the Secretary and the United States Trade Representative jointly submit to the congressional committees specified in subsection (b)(1) [House Financial Services and Ways and Means and Senate Banking, Housing, and Urban Affairs and Finance], on a day on which both Houses of Congress are in session, a copy of the final legal text of the agreement and a period of 90 calendar days beginning on the date on which the copy of the final legal text of the agreement is submitted to the congressional committees under paragraph (1) has expired.
  - Reference: 31 U.S.C. § 314(c) (2017)
- The Secretary of the Treasury shall submit each fiscal year to the appropriate committees a report detailing the investment of operating cash under subsection (a) for the preceding fiscal year. The report shall describe the Secretary's consideration of risks associated with investments and the actions taken to manage such risks.
  - Reference: 31 U.S.C. § 323(d)(1) (2017)
- The Secretary of the Treasury shall submit to Congress each year an annual report [on the public receipts and expenditures for the prior, current, and next fiscal years; contracts for supplies; payments; etc.].
  - Reference: 31 U.S.C. § 331(a) (2017)
- On the first day of each regular session of Congress, the Secretary shall submit to Congress a report for the prior fiscal year on [liabilities of the United States government and its agencies].
  - Reference: 31 U.S.C. § 331(b) (2017)
- On the first day of each regular session of Congress, the Secretary shall submit to Congress a report for the prior fiscal year on the total amount of public receipts and public expenditures listing receipts, when practicable, by ports, districts, and States and the expenditures by each appropriation.
  - Reference: 31 U.S.C. § 331(c) (2017)
- Not later than March 31 of 1998 and each year thereafter, the Secretary of the Treasury, in coordination with the Director of the Office of Management and Budget, shall annually prepare and submit to the President and the Congress an audited financial statement for the preceding fiscal year, covering all accounts and associated activities of the executive branch of the United States Government.
  - Reference: 31 U.S.C. § 331(e) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* The Secretary and the United States Trade Representative are authorized, jointly, to negotiate and enter into covered agreements on behalf of the United States.

- Reference: 31 U.S.C. § 314(a) (2017)
- The Department of the Treasury has a working capital fund. Amounts in the fund are available for expenses of operating and maintaining common administrative services of the Department that the Secretary of the Treasury, with the approval of the Director of the Office of Management and Budget, decides may be carried out more advantageously and more economically as central services.
  - Reference: 31 U.S.C. § 322(a) (2017)

*Legislative Veto:* None

*Adjudication:* None

### **Alcohol and Tobacco Tax and Trade Bureau**

*Date of Creation:* January 24, 2003<sup>319</sup>

*Statute:* 6 U.S.C. § 531(d) (2017)

*Authorizing Language:* There is established within the Department of the Treasury the Tax and Trade Bureau.

- Reference: 6 U.S.C. § 531(d)(1) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The Tax and Trade Bureau shall be headed by an Administrator, who shall perform such duties as assigned by the Under Secretary for Enforcement of the Department of the Treasury. The Administrator shall occupy a career-reserved position within the Senior Executive Service

- Reference: 6 U.S.C. § 531(d)(2) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

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<sup>319</sup> Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135 (2002).

## **Bureau of Engraving and Printing**

*Date of Creation:* July 11, 1862<sup>320</sup>

*Statute:* 31 U.S.C. §§ 303; 5141-5144 (2017)

*Authorizing Language:* The Bureau of Engraving and Printing is a bureau in the Department of the Treasury.

- Reference: 31 U.S.C. § 303(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The head of the Bureau is the Director of the Bureau of Engraving and Printing appointed by the Secretary of the Treasury.

- Reference: 31 U.S.C. § 303(b) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The Department of the Treasury has a Bureau of Engraving and Printing Fund. Amounts in the Fund are available to operate the Bureau of Engraving and Printing; in the Fund remain available until expended; and may be appropriated to the Fund. The Fund consists of property and physical assets (except buildings and land) acquired by the Bureau; all amounts received by the Bureau; and proceeds from the disposition of property and assets acquired by the Fund. The capital of the fund consists of amounts appropriated to the Fund; physical assets of the Bureau (except buildings and land) as of the close of business June 30, 1951; and all payments made after June 30, 1974, under section 5143 of this title at prices adjusted to permit buying capital equipment and to provide future working capital.

- Reference: 31 U.S.C. § 5142 (2017)

*Reporting Requirements:* The Secretary of the Treasury shall prepare and submit to the President an annual business-type budget for the Bureau of Engraving and Printing.

- Reference: 31 U.S.C. § 5141(a) 92017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **Bureau of the Fiscal Service**

<sup>320</sup> Second Legal Tender Act, 12 Stat. 532 (1862). The Bureau of Engraving and Printing was officially recognized in legislative text in 1874,

*Date of Creation:* June 30, 1940<sup>321</sup>

*Statute:* 31 U.S.C. § 306 (2017)

*Authorizing Language:* The Fiscal Service is a service in the Department of the Treasury.

- Reference: 31 U.S.C. § 306(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* The Secretary of the Treasury may designate another officer of employee of the Department to act as the Fiscal Assistant Secretary when the Fiscal Assistant Secretary is absent or unable to serve or when the office of the Fiscal Assistant Secretary is vacant.

- Reference: 31 U.S.C. § 306(d) (2017)

*Who is Head of Agency:* The head of the Fiscal Service is the Fiscal Assistant Secretary appointed under section 301(d) of this title [appointed by and with the advice and consent of the Senate].

- Reference: 31 U.S.C. § 306(b) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Federal Insurance Office**

*Date of Creation:* July 21, 2010<sup>322</sup>

*Statute:* 31 U.S.C. § 313 (2017)

*Authorizing Language:* There is established within the Department of the Treasury the Federal Insurance Office.

- Reference: 31 U.S.C. § 313(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

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<sup>321</sup> Reorganization Plan No. III of 1940 established the Fiscal Service. The Bureau of Fiscal Service in its current form was established in 2012. Treas. Order No. 136-01 (2012).

<sup>322</sup> Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010).

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The Office shall be headed by a Director, who shall be appointed by the Secretary of the Treasury. The position of Director shall be a career reserved position in the Senior Executive Service.

- Reference: 31 U.S.C. § 313(b) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* Upon making any determination under paragraph (1) [that a state insurance measure is preempted], the Director shall . . . notify the Committees on Financial Services and Ways and Means of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Finance of the Senate.

- Reference: 31 U.S.C. § 313(f)(2)(c)(iii) (2017)
- Beginning September 30, 2011, the Director shall submit a report on or before September 30 of each calendar year to the President and to the Committees on Financial Services and Ways and Means of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Finance of the Senate on any actions taken by the Office pursuant to subsection (f) (regarding preemption of inconsistent State insurance measures).
  - Reference: 31 U.S.C. § 313(n)(1) (2017)
- Beginning September 30, 2011, the Director shall submit a report on or before September 30 of each calendar year to the President and to the Committees on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the insurance industry and any other information as deemed relevant by the Director or requested by such Committees.
  - Reference: 31 U.S.C. § 313(n)(2) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Financial Crimes Enforcement Network**

*Date of Creation:* April 25, 1990<sup>323</sup>

*Statute:* 31 U.S.C. § 310 (2017)

*Authorizing Language:* The Financial Crimes Enforcement Network established by order of the Secretary of the Treasury on April 25, 1990, shall be a bureau in the Department of the Treasury.

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<sup>323</sup> Treas. Order No. 105-08 (1990).

- Reference: 31 U.S.C. § 310(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The head of FinCEN shall be the Director, who shall be appointed by the Secretary of the Treasury.

- Reference: 31 U.S.C. § 310(b)(1) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Financial Stability Oversight Council**

*Date of Creation:* July 21, 2010<sup>324</sup>

*Statute:* 12 U.S.C. §§ 5321-5333 (2017)

*Authorizing Language:* Effective on July 21, 2010, there is established the Financial Stability Oversight Council.

- Reference: 12 U.S.C. § 5321(a) (2017)

*Commissioners/Board Members:* The Council shall consist of the following members: the voting members, who each shall have 1 vote on the Council shall be the Secretary of the Treasury. . .the Chairman of the Board of Governors; the Comptroller of the Currency; the Director of the [Consumer Financial Protection] Bureau; the Chairman of the [Securities and Exchange] Commission; the Chairperson of the [Federal Deposit Insurance] Corporation; the Chairperson of the Commodity Futures Trading Commission; the Director of the Federal Housing Finance Agency; the Chairman of the National Credit Union Administration Board; and an independent member appointed by the President, by and with the advice and consent of the Senate.<sup>325</sup>

<sup>324</sup> Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, Title I, § 111, 124 Stat. 1392 (2010).

<sup>325</sup> The nonvoting members, who shall not be excluded from proceedings and serve in an advisory capacity for two year terms, shall be the Director of the Office of Financial Research, the Director of the Federal Insurance Office, a state insurance commissioner (designated by a selection process determined by state insurance commissioners), a state banking supervisor (designated by a selection process determined by state banking supervisors, and a state

- Reference: 12 U.S.C. § 5321(b)(1) (2017)

*Quorum Rules:* None

*Agency Specific Personnel:* None

*Limitation on Appointment:* [The independent member of the Council shall have] insurance expertise.

- Reference: 12 U.S.C. § 5321(b)(1)(J) (2017)

*Party Balancing:* None

*Fixed Terms:* The independent member of the Council shall serve for a term of 6 years.

- Reference: 12 U.S.C. § 5321(c)(1) (2017)

*Staggered Terms:* None

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* None<sup>326</sup>

*Acting Service Rules:* In the event of a vacancy in the office of the head of a member agency or department, and pending the appointment of a successor, or during the absence or disability of the head of a member agency or department, the acting head of the member agency or department shall serve as a member of the Council in the place of that agency or department head.

- Reference: 12 U.S.C. § 5321(c)(3) (2017)

*Who is Head of Agency:* The Secretary of the Treasury. . . shall serve as Chairperson of the Council.

- Reference: 12 U.S.C. § 5321(b)(1)(A) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* The Council shall, in accordance with this subchapter. . . annually report to and testify before Congress on [the activities of the Council].

- Reference: 12 U.S.C. § 5322(a)(2)(N) (2017)
- Not later than 60 days after the date of a hearing under paragraph (1) [to appeal treatment as a nonbank financial company supervised by the Fed], the Council shall submit a report to, and may testify before, the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the proposed decision of the Council regarding an appeal under paragraph (1), which report shall include a statement of the basis for the proposed decision of the Council.
  - Reference: 12 U.S.C. § 5327(c)(2)(A) (2017)
- The Council shall report to Congress on any recommendations issued by the Council under this section [additional standards applicable to activities or practices for financial stability purposes]; the implementation of, or failure to implement, such recommendation on the part of a primary financial regulatory agency; and in any case in which no primary financial regulatory agency exists for the nonbank financial company conducting financial activities or practices referred to in subsection (a), recommendations for

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securities commissioner (designated by a selection process determined by state securities commissioners). 12 U.S.C. § 5321(b)-(c) (2017).

<sup>326</sup> When the term of office of an officer of the Department of the Treasury ends, that officer may continue to serve until a successor is appointed and qualified. 31 U.S.C. § 315 (2017)

legislation that would prevent such practices from threatening the stability of the financial system of the United States.

- Reference: 12 U.S.C. § 5330(d) (2017)
- Not later than the end of the 180-day period beginning on July 21, 2010, and not later than every 5 years thereafter, the Chairperson shall issue a report to the Congress containing any findings and determinations made in carrying out the study required under subsection (a) [study of the effects of size and complexity of financial institutions on capital market efficiency and economic growth].
  - Reference: 12 U.S.C. § 5333(b) (2017)

*Review Commissions:* None

*Advisory Commissions:* The Council may appoint such special advisory, technical, or professional committees as may be useful in carrying out the functions of the Council including an advisory committee consisting of State regulators, and the members of such committees may be members of the Council, or other persons, or both.

- Reference: 12 U.S.C. § 5321(d) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Internal Revenue Service**

*Date of Creation:* July 1, 1862<sup>327</sup>

*Statute:* 26 U.S.C. §§ 7801-7874 (2017)

*Authorizing Language:* None

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* The National Taxpayer Advocate shall be appointed by the Secretary of the Treasury after consultation with the Commissioner of Internal Revenue and the Oversight Board and without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service or the Senior Executive Service.

- Reference: 26 U.S.C. § 7803(c)(1)(B)(ii) (2017)

*Limitation on Appointment:* Such appointment [of the Commissioner] shall be made from individuals who, among other qualifications, have a demonstrated ability in management.

- Reference: 26 U.S.C. § 7803(a)(1)(A) (2017)
- An individual appointed under clause (ii) [National Taxpayer Advocate] shall have a background in customer service as well as tax law and experience in representing individual taxpayers. An individual may be appointed as the National Taxpayer Advocate only if such individual was not an officer or employee of the Internal Revenue Service during the 2-year period ending with such appointment and such individual agrees not to accept any employment with the Internal Revenue Service for at least 5 years after ceasing to be the National Taxpayer Advocate.
  - Reference: 26 U.S.C. § 7803(c)(1)(B)(iii)-(iv) (2017)

*Party Balancing:* None

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<sup>327</sup> 12 Stat. 432 (1862).

*Fixed Terms:* The term of the Commissioner of Internal Revenue shall be a 5-year term, beginning with a term to commence on November 13, 1997. Each subsequent term shall begin on the day after the date on which the previous term expires.

- Reference: 26 U.S.C. § 7803(a)(1)(B) (2017)

*Staggered Terms:* N/A

*For Cause:* None

*Serve President:* The Commissioner may be removed at the will of the President.

- Reference: 26 U.S.C. § 7803(a)(1)(D) (2017)

*Continuation until Replacement:* None<sup>328</sup>

*Acting Service Rules:* None

*Who is Head of Agency:* There shall be in the Department of the Treasury a Commissioner of Internal Revenue who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 26 U.S.C. § 7803(a)(1)(A) (2017)

*OMB Review:* The Secretary shall submit the budget request referred to in paragraph (4)(B) [IRS request that is reviewed and approved by the Oversight Board] for any fiscal year to the President who shall submit such request, without revision, to Congress together with the President's annual budget request for the Internal Revenue Service for such fiscal year.

- Reference: 26 U.S.C. § 7802(d) (2017)

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* Not later than June 30 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Office of the Taxpayer Advocate for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information.

- Reference: 26 U.S.C. § 7803(c)(2)(B)(i) (2017)
- Not later than December 31 of each calendar year, the National Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the activities of the Office of the Taxpayer Advocate during the fiscal year ending during such calendar year.
  - Reference: 26 U.S.C. § 7803(c)(2)(B)(ii) (2017)

*Review Commissions:* The [Internal Revenue Service] Oversight Board shall have the following specific responsibilities: To review and approve strategic plans of the Internal Revenue Service, including the establishment of mission and objectives, and standards of performance relative to either, and annual and long-range strategic plans; to review the operational functions of the Internal Revenue Service including plans for modernization of the tax system, plans for outsourcing or managed competition, and plans for training and education; to recommend to the President candidates for appointment as the Commissioner of Internal Revenue and recommend to the President the removal of the Commissioner; review the Commissioner's selection, evaluation, and compensation of Internal Revenue Service senior executives who have program management

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<sup>328</sup> When the term of office of an officer of the Department of the Treasury ends, that officer may continue to serve until a successor is appointed and qualified. 31 U.S.C. § 315 (2017)

responsibility over significant functions of the Internal Revenue Services and review and approve the Commissioner's plans for any major reorganization of the Internal Revenue Service; to review and approve the budget request of the Internal Revenue Service prepared by the Commissioner.

- Reference: 26 U.S.C. § 7802(d) (2017)

*Advisory Commissions:* None

*Action Require Outside Approval:* The [Internal Revenue Service] Oversight Board shall have the following specific responsibilities: To review and approve strategic plans of the Internal Revenue Service, including the establishment of mission and objectives, and standards of performance relative to either, and annual and long-range strategic plans.

- Reference: 26 U.S.C. § 7802(d)(1) (2017)

*Legislative Veto:* None

*Adjudication:* None

### **Internal Revenue Service Oversight Board**

*Date of Creation:* November 10, 1988<sup>329</sup>

*Statute:* 26 U.S.C. § 7802 (2017)

*Authorizing Language:* There is established within the Department of the Treasury the Internal Revenue Service Oversight Board.

- Reference: 26 U.S.C. § 7802(a) (2017)

*Commissioners/Board Members:* The Oversight Board shall be composed of nine members, as follows: six members shall be individuals who are not otherwise Federal officers or employees and who are appointed by the President, by and with the advice and consent of the Senate; one member shall be the Secretary of the Treasury, or, if the Secretary so designates, the Deputy Secretary of the Treasury; one member shall be the Commissioner of Internal Revenue; one member shall be an individual who is a full-time Federal employee or a representative of employees and who is appointed by the President, by and with the advice and consent of the Senate.

- Reference: 26 U.S.C. § 7802(b)(1) (2017)

*Quorum Rules:* Five members of the Oversight Board shall constitute a quorum. A majority of members present and voting shall be required for the Oversight Board to take action.

- Reference: 26 U.S.C. § 7802(b)(4) (2017)

*Agency Specific Personnel:* None

*Limitation on Appointment:* Members of the Oversight Board described in paragraph (1)(A) [non-federal employee PAS members] shall be appointed without regard to political affiliation and solely on the basis of their professional experience and expertise in one or more of the following areas: management of large service organizations; customer service; federal tax laws, including tax administration and compliance; information technology; organization development; the needs and concerns of taxpayers; the needs and concerns of small businesses. In the aggregate, the members of the Oversight Board described in paragraph (1)(A) should collectively bring to bear expertise in all of the areas described in the preceding sentence.

- Reference: 26 U.S.C. § 7802(a)(2)(A) (2017)

*Party Balancing:* None

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<sup>329</sup> Technical and Miscellaneous Revenue Act of 1988, Pub. L. No. 100-647, 102 Stat. 3342 (1988).

*Fixed Terms:* Each member who is described in subparagraph (A) or (D) of paragraph (1) [all PAS members] shall be appointed for a term of 5 years.

- Reference: 26 U.S.C. § 7802(b)(2)(B) (2017)

*Staggered Terms:* Each member who is described in subparagraph (A) or (D) of paragraph (1) [all PAS members] shall be appointed for a term of 5 years, except that of the members first appointed under paragraph (1)(A) two members shall be appointed for a term of 3 years, two members shall be appointed for a term of 4 years, and two members shall be appointed for a term of 5 years.

- Reference: 26 U.S.C. § 7802(b)(2)(B) (2017)

*For Cause:* None

*Serve President:* Any member of the Oversight Board appointed under subparagraph (A) or (D) of paragraph (1) [all PAS members] may be removed at the will of the President.

- Reference: 26 U.S.C. § 7802(b)(5)(A) (2017)

*Continuation until Replacement:* None<sup>330</sup>

*Acting Service Rules:* None

*Who is Head of Agency:* The members of the Oversight Board shall elect for a 2-year term a chairperson from among the members appointed under subsection (b)(1)(A) [non-federal employee PAS members].

- Reference: 26 U.S.C. § 7802(f)(1)(A) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* The Oversight Board shall each year report with respect to the conduct of its responsibilities under this title to the President, the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives and the Committees on Finance, Governmental Affairs, and Appropriations of the Senate.

- Reference: 26 U.S.C. § 7802(f)(3)(A) (2017)
- Upon a determination by the Oversight Board under subsection (c)(1)(B) that the organization and operation of the Internal Revenue Service are not allowing it to carry out its mission, the Oversight Board shall report such determination to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.
  - Reference: 26 U.S.C. § 7802(f)(3)(B) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **Office of Foreign Assets Control**

*Date of Creation:* October 15, 1962<sup>331</sup>

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<sup>330</sup> When the term of office of an officer of the Department of the Treasury ends, that officer may continue to serve until a successor is appointed and qualified. 31 U.S.C. § 315 (2017)

<sup>331</sup> Originally established by Department of the Treasury Order as the Division of Foreign Assets Control in 1950, the Office of Foreign Assets Control was established in 1962. Department of the Treasury Order.

*Statute:* 31 U.S.C. § 312 (2017)

*Authorizing Language:* Notwithstanding any other provision of law, the following offices of the Department of the Treasury shall be within the OTFI [Office of Terrorism and Financial Intelligence]. . . The Office of Foreign Assets Control.

- Reference: 31 U.S.C. § 312(a)(6)(C) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* None

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Office of the Comptroller of the Currency**

*Date of Creation:* February 25, 1863<sup>332</sup>

*Statute:* 12 U.S.C. §§ 1-16; 31 U.S.C. § 307 (2017)

*Authorizing Language:* There is established in the Department of the Treasury a bureau to be known as the “Office of the Comptroller of the Currency.”

- Reference: 12 U.S.C. § 1(a) (2017)
- The Office of the Comptroller of the Currency, established under section 324 of the Revised Statutes, is an office in the Department of the Treasury.
  - Reference: 31 U.S.C. § 307 (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* It shall not be lawful for the Comptroller or the Deputy Comptroller of the Currency, either directly or indirectly, to hold an interest in any national bank or any Federal savings association.

- Reference: 12 U.S.C. § 11 (2017)

*Party Balancing:* N/A

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<sup>332</sup> 12 Stat. 665 (1863).

*Fixed Terms:* The Comptroller of the Currency. . .shall hold his office for a term of five years.

- Reference: 12 U.S.C. § 2 (2017)

*Staggered Terms:* N/A

*For Cause:* None

*Serve President:* The Comptroller of the Currency. . .shall hold his office for a term of five years unless sooner removed by the President, upon reasons to be communicated by him to the Senate.

- Reference: 12 U.S.C. § 2 (2017)

*Continuation until Replacement:* None<sup>333</sup>

*Acting Service Rules:* During a vacancy in the office or during the absence or disability of the Comptroller, each Deputy Comptroller shall possess the power and perform the duties attached by law to the office of the Comptroller under such order of succession following the First Deputy Comptroller as the Comptroller shall direct.

- Reference: 12 U.S.C. § 4 (2017)

*Who is Head of Agency:* The chief officer of the Office of the Comptroller of the Currency shall be known as the Comptroller of the Currency.

- Reference: 12 U.S.C. § 1(b)(1) (2017)
- The Comptroller of the Currency shall be appointed by the President, by and with the advice and consent of the Senate.
  - Reference: 12 U.S.C. § 2 (2017)

*OMB Review:* None<sup>334</sup>

*Independent Litigating:* None

*Independent Sources of Funding:* The Comptroller of the Currency may collect an assessment, fee, or other charge from any entity described in section 1813(q)(1) of this title [Federal banking agency], as the Comptroller determines is necessary or appropriate to carry out the responsibilities of the Office of the Comptroller of the Currency. . .Funds derived from any assessment, fee, or charge collected or payment made pursuant to this section may be deposited by the Comptroller of the Currency in accordance with the provisions of section 192 of this title. Such funds shall not be construed to be Government funds or appropriated moneys, and shall not be subject to apportionment for purposes of chapter 15 of Title 31 or any other provision of law. The authority of the Comptroller of the Currency under this section shall be in addition to the authority under subchapter XV of chapter 3. The Comptroller of the Currency shall have sole authority to determine the manner in which the obligations of the Office of the Comptroller of the Currency shall be incurred and its disbursements and expenses allowed and paid.

- Reference: 12 U.S.C. § 16 (2017)

*Reporting Requirements:* The Comptroller of the Currency shall make an annual report to Congress.

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<sup>333</sup> When the term of office of an officer of the Department of the Treasury ends, that officer may continue to serve until a successor is appointed and qualified. 31 U.S.C. § 315 (2017)

<sup>334</sup> The Office of the Comptroller of the Currency is identified as an “independent regulatory agency” and thus is exempt from OMB rule review. See Exec. Order No. 12866, 58 Fed. Reg. 51735 (1993); 44 U.S.C. § 3502(5) (2017). Financial regulatory agencies, including the Comptroller of the Currency, are exempt from OMB legislative communications review. 12 U.S.C. § 250 (2017). See also, Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget “Bypass” Authorities (Feb. 20, 2001), available at <http://www.citizen.org/documents/OMBDocument1.pdf>.

- Reference: 12 U.S.C. § 14 (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **United States Mint**

*Date of Creation:* April 2, 1792<sup>335</sup>

*Statute:* 31 U.S.C. §§ 304; 5131-5136 (2017)

*Authorizing Language:* The United States Mint is a bureau in the Department of the Treasury.

- Reference: 31 U.S.C. § 304 (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* The term of the Director is 5 years.

- Reference: 31 U.S.C. § 304(b)(1)

*Staggered Terms:* N/A

*For Cause:* None

- Reference:

*Serve President:* The President may remove the Director from office. On removal, the President shall send a message to the Senate giving the reasons for removal.

- Reference: 31 U.S.C. § 304(b)(1) (2017)

*Continuation until Replacement:* None<sup>336</sup>

*Acting Service Rules:* None

*Who is Head of Agency:* The head of the Mint is the Director of the Mint. The Director is appointed by the President, by and with the advice and consent of the Senate.

- Reference: 31 U.S.C. § 304(b)(1) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* There is hereby established in the Treasury of the United States a revolving Numismatic Public Enterprise Fund consisting of amounts deposited in the fund under subsection (c)(2) of this section or section 221(b) of the United States Mint Reauthorization and Reform Act of 1992 which shall be available to the Secretary for numismatic operations and programs of the United States Mint without fiscal year limitation. . . Any expense incurred by the Secretary for numismatic operations and programs which the Secretary determines, in the Secretary's sole discretion, to be ordinary and reasonable incidents of the numismatic business shall be paid out of the Fund, including any expense incurred pursuant to any obligation or other commitment of Mint numismatic operations and programs which was entered into before the beginning of fiscal year 1993. All receipts from numismatic operations and programs shall be

<sup>335</sup> Coinage Act, 1 Stat. 246 (1792).

<sup>336</sup> When the term of office of an officer of the Department of the Treasury ends, that officer may continue to serve until a successor is appointed and qualified. 31 U.S.C. § 315 (2017)

deposited into the Fund, including amounts attributable to any surcharge imposed with respect to the sale of any numismatic item.

- Reference: 31 U.S.C. § 5134 (2017)
- There shall be established in the Treasury of the United States, a United States Mint Public Enterprise Fund for fiscal year 1996 and hereafter: Provided that all receipts from Mint operations and programs, including the production and sale of numismatic items, the production and sale of circulating coinage, the protection of Government assets, and gifts and bequests of property, real or personal shall be deposited into the Fund and shall be available without fiscal year limitations: Provided further, That all expenses incurred by the Secretary of the Treasury for operations and programs of the United States Mint that the Secretary of the Treasury determines, in the Secretary's sole discretion, to be ordinary and reasonable incidents of Mint operations and programs, and any expense incurred pursuant to any obligation or other commitment of Mint operations and programs that was entered into before the establishment of the Fund, shall be paid out of the Fund.
  - Reference: 31 U.S.C. § 5136 (2017)

*Reporting Requirements:* The Secretary shall make an annual report at the end of each fiscal year on the operation of the United States Mint.

- Reference: 31 U.S.C. § 5132(c) (2017)
- The Secretary shall submit an annual report to the Congress containing a statement of the total amount transferred to the treasury [from the Numismatic Public Enterprise Fund] pursuant to subparagraph (A) during the period covered by the report; a statement of the amount by which the amount on deposit in the Fund at the end of the period covered by the report exceeds the estimated operating costs of the Fund for the 1-year period beginning at the end of such period and an explanation of the specific purposes for which such excess amounts are being retained in the Fund.
  - Reference: 31 U.S.C. § 5134(c)(4)(B) (2017)
- By April 30 of each year, the Secretary shall submit a report on the [Numismatic Public Enterprise] Fund for the most recently completed fiscal year to . . .the Congress.
  - Reference: 31 U.S.C. § 5134(e)(4) (2017)
- For each fiscal year beginning before fiscal year 2003, the Secretary shall submit an annual report on all marketing activities and expenses of the [Numismatic Public Enterprise] Fund to the Congress before the end of the 3-month period beginning at the end of such fiscal year.
  - Reference: 31 U.S.C. § 5134(e)(5) (2017)
- Not later than the 30<sup>th</sup> day of each month following each calendar quarter through and including the final period of sales with respect to any commemorative coin program authorized on or after the date of enactment of the Treasury, Postal Service, and General Government Appropriations Act, 1997, the Mint shall submit to Congress a quarterly financial report in accordance with this subsection.
  - Reference: 31 U.S.C. § 5134(g)(1) (2017)

*Review Commissions:* None

*Advisory Commissions:* There is hereby established the Citizens Coinage Advisory Committee to advise the Secretary of the Treasury on the selection of themes and designs for coins.

- Reference: 31 U.S.C. § 5135(a) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None  
*Adjudication:* None

## **DEPARTMENT OF TRANSPORTATION**

*Date of Creation:* October 15, 1966<sup>337</sup>

*Statute:* 49 U.S.C. §§ 101-526 (2017)

*Authorizing Language:* The Department of Transportation is an executive department of the United States Government at the seat of Government.

- Reference: 49 U.S.C. § 102(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* Except as provided in subsections (a) and (g) of section 40122 [FAA personnel management system], the Administrator is authorized, in the performance of the functions of the Administrator, to appoint, transfer, and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out functions of the Administrator and the Administration. In fixing compensation and benefits of officers and employees, the Administrator shall not engage in any type of bargaining, except to the extent provided for in section 40122(a), nor shall the Administrator be bound by any requirement to establish such compensation or benefits at particular levels.

- Reference: 49 U.S.C. § 106(l)(1) (2017)

*Limitation on Appointment:* The [Federal Railroad] Administrator. . . shall be an individual with professional experience in railroad safety, hazardous materials safety, or other transportation safety.

- Reference: 49 U.S.C. § 103(d) (2017)
- The [Federal Aviation] Administrator must be a citizen of the United States; be a civilian; and have experience in a field directly related to aviation.
  - Reference: 49 U.S.C. § 106(c) (2017)
- The Deputy Administrator [of the FAA] shall be a citizen of the United States and have experience in a field directly related to aviation. An officer on active duty in an armed force may be appointed as Deputy Administrator. However, if the Administrator is a former regular officer of an armed force, the Deputy Administrator may not be an officer on active duty in an armed force, a retired regular officer of an armed force, or a former regular officer of an armed force.
  - Reference: 49 U.S.C. § 106(d)(1) (2017)
- The Administrator and the Deputy Administrator [of the FAA] may not have a pecuniary interest in, or own stock in or bonds of, an aeronautical enterprise, or engage in another business, vocation, or employment.
  - Reference: 49 U.S.C. § 106(e) (2017)
- The Chief Operating Officer [of the FAA] shall have a demonstrated ability in management and knowledge of or experience in aviation.
  - Reference: 49 U.S.C. § 106(r)(1)(B) (2017)
- The Chief NextGen Officer [of the FAA] shall have a demonstrated ability in management and knowledge of or experience in aviation and systems engineering.

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<sup>337</sup> Department of Transportation Act, Pub. L. No. 89-670, 80 Stat. 931 (1966).

- Reference: 49 U.S.C. § 106(s)(1)(B) (2017)
- The Director [of the FAA Aviation Safety Whistleblower Investigation Office] shall have a demonstrated ability in investigations and knowledge of or experience in aviation.
  - Reference: 49 U.S.C. § 106(t)(2)(B) (2017)
- The Administrator [of the Pipeline and Hazardous Materials Safety Administration]. . . shall be an individual with professional experience in pipeline safety, hazardous materials safety, or other transportation safety.
  - Reference: 49 U.S.C. § 108(c) (2017)
- The Administrator [of the Federal Motor Carrier Safety Administration]. . . shall be an individual with professional experience in motor carrier safety.
  - Reference: 49 U.S.C. § 113(c) (2017)

*Party Balancing:* N/A

*Fixed Terms:* The term of office for any individual appointed as [Federal Aviation] Administrator after August 23, 1994, shall be 5 years.

- Reference: 49 U.S.C. § 106(b) (2017)
- The Chief Operating Officer [of the FAA] shall be appointed for a term of 5 years.
  - Reference: 49 U.S.C. § 106(r)(1)(C) (2017)
- The Chief NextGen Officer shall be appointed for a term of 5 years.
  - Reference: 49 U.S.C. § 106(s)(1)(C) (2017)
- The Director [of the FAA Aviation Safety Whistleblower Investigation Office] shall be appointed for a term of 5 years.
  - Reference: 49 U.S.C. § 106(t)(2)(C) (2017)

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* The Deputy Secretary. . . acts for the Secretary when the Secretary is absent or unable to serve or when the office of the Secretary is vacant.

- Reference: 49 U.S.C. § 102(c)(2) (2017)

*Who is Head of Agency:* The head of the Department is the Secretary of Transportation. The Secretary is appointed by the President, by and with the advice and consent of the Senate.

- Reference: 49 U.S.C. § 102(b) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The Secretary of Transportation may accept and use conditional or unconditional gifts of property for the Department of Transportation. The Secretary may accept a gift of services in carrying out aviation duties and powers.

- Reference: 49 U.S.C. § 326(a) (2017)
- The Department has a fund in the Treasury. Disbursements from the fund are made on order of the Secretary. The fund consists of gifts of money; income from property accepted under this section and proceeds from the sale of that property; and income from securities under subsection (c) of this section.
  - Reference: 49 U.S.C. § 326(b) (2017)
- The Department of Transportation has an administrative working capital fund. Amounts in the fund are available for expenses of operating and maintaining common

administrative services the Secretary of Transportation decides are desirable for the efficiency and economy of the Department. . .Amounts in the fund are available without regard to fiscal year limitation. Amounts may be appropriated to the fund. The fund consists of amounts appropriated to the fund; the reasonable value of stocks of supplies, equipment, and other assets and inventories on order that the secretary transfers to the fund, less the related liabilities and unpaid obligations; amounts received from the sale or exchange of property; and payments received for loss or damage to property of the fund.

- Reference: 49 U.S.C. § 327 (2017)
- The Department of Transportation has a Transportation Systems Center working capital fund. Amounts in the fund are available for financing the activities of the Center, including research, development, testing, evaluation, analysis, and related activities the Secretary of Transportation approves, for the Department, other agencies, State and local governments, other public authorities, private organizations, and foreign countries. Amounts in the fund are available without regard to fiscal year limitation. Amounts may be appropriated to the fund. The capital of the fund consists of amounts appropriated to the fund; net assets of the Center as of October 1, 1980, including unexpended advances made to the Center for which valid obligations were incurred before October 1, 1980; the reasonable value of property and other assets transferred to the fund after September 30, 1980, less the related liabilities and unpaid obligations; and the reasonable value of property and other assets donated to the fund. The fund shall be reimbursed or credited with advance payments from applicable funds or appropriations of the Department and other agencies, and with advance payments from other sources, the Secretary authorizes for services at rates that will recover the expenses of operation, including the accrual of annual leave and overhead; and receipts from the sale or exchange of property or in payment for loss of damage of property held by the fund.
  - Reference: 49 U.S.C. § 328 (2017)
- The person or governmental authority requesting information under paragraph (1) of this subsection [transportation information] must pay the actual cost of preparing the information. Payments shall be deposited in the Treasury in an account that the Secretary shall administer. The Secretary may use amounts in the account for the ordinary expenses incidental to getting and providing the information.
  - Reference: 49 U.S.C. § 329(d)(2) (2017)
- The Secretary shall prescribe reasonable charges for medical treatment provided under subsection (a)(1) of this section and for supplies and services provided under subsection (a)(2) and (3) of this section. Amounts received under this subsection shall be credited to the appropriation from which the expenditure was made.
  - Reference: 49 U.S.C. § 331(b) (2017)

*Reporting Requirements:* Beginning with fiscal year 2010 and each fiscal year thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, at the same time as the President's budget submission, the [Federal Railroad] Administration's performance goals and schedule developed under paragraph (1), including an assessment of the progress of the Administration toward achieving its performance goals.

- Reference: 49 U.S.C. § 103(k)(3) (2017)

- On February 1 and August 1 of each year the [Federal Aviation] Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a letter listing each deadline the Administrator missed under this subparagraph during the 6-month period ending on such date, including an explanation for missing the deadline and a projected date on which the action that was subject to the deadline will be taken.
  - Reference: 49 U.S.C. § 106(f)(3)(A) (2017)
- The Chief Operating Officer [of the FAA] shall prepare and transmit to the . . . Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an annual management report containing such information as may be prescribed by the Secretary.
  - Reference: 49 U.S.C. § 106(r)(4) (2017)
- The Chief NextGen Officer shall prepare and transmit to the . . . Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Science, Space, and Technology of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate an annual management report containing such information as may be prescribed by the Secretary.
  - Reference: 49 U.S.C. § 106(s)(4) (2017)
- Not later than October 1 of each year, the Director [of the FAA Aviation Safety Whistleblower Investigation Office] shall submit to Congress a report containing information on the number of submissions of complaints and information received by the Director under paragraph (3)(A)(i) in the preceding 12-month period; summaries of those submissions; summaries of further investigations and corrective actions recommended in response to the submissions; and summaries of the responses of the Administrator to such recommendations.
  - Reference: 49 U.S.C. § 106(t)(7) (2017)
- Not later than 90 days after the date of enactment of this section, and every 90 days thereafter, the Secretary shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Commerce, Science, and Transportation of the Senate of the offices eliminated under paragraph (1) [duplicative purposes] and the rationale for elimination of the offices; the offices and office functions consolidated under paragraph (2) and the rationale for consolidation of the offices and office functions; the actions taken under paragraph (3) and the rationale for taking such actions; and any additional legislative actions that may be needed.
  - Reference: 49 U.S.C. § 116(h)(4) (2017)
- As soon as practicable after the end of each fiscal year, the Secretary of Transportation shall report to the President, for submission to Congress, on the activities of the Department of Transportation during the prior fiscal year.
  - Reference: 49 U.S.C. § 308(a) (2017)
- The Secretary shall submit to the President and Congress each year a report on the aviation activities of the Department. The report shall include collected information the Secretary considers valuable in deciding questions about the development and regulation of civil aeronautics; the use of airspace of the United States; and the improvement of the

air navigation and traffic control system; and recommendations for additional legislation and other action the Secretary considers necessary.

- Reference: 49 U.S.C. § 308(b) (2017)
- The Secretary shall submit to Congress each year a report on the conditions of the public ports of the United States, including the economic and technological development of the ports; extent to which the ports contribute to the national welfare and security; and factors that may impede the continued development of the ports.
  - Reference: 49 U.S.C. § 308(c) (2017)
- The Secretary shall submit to Congress in March, 1998, and in March of each even-numbered year thereafter, a report of estimates by the Secretary on the current performance and condition of public mass transportation systems with recommendations for necessary administrative or legislative changes.
  - Reference: 49 U.S.C. § 308(e)(1) (2017)
- Not later than 2 years after the date of enactment of this section and biennially thereafter, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes progress in aligning Federal environmental reviews under this section and the impact this section has had on accelerating the environmental review and permitting process.
  - Reference: 49 U.S.C. § 310(f)(1) (2017)
- Not later than 3 years after the date of enactment of this section [Dec. 4, 2015], the Inspector General of the Department of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes progress in aligning Federal environmental reviews under this section and the impact this section has had on accelerating the environmental review and permitting process.
  - Reference: 49 U.S.C. § 310(f)(2) (2017)
- Except as provided in subsection (b) or as expressly provided in another provision of law, the Secretary of Transportation shall provide to the appropriate committees of Congress notice of an announcement concerning a covered project at least 3 full business days before the announcement is made by the Department.
  - Reference: 49 U.S.C. § 311(a) (2017)
- With respect to an allocation of funds under section 125 of title 23, the Secretary shall provide to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate notice of the allocation at least 3 full business days before the issuance of the allocation or concurrently with the issuance of the allocation, if the allocation is made using the quick release process of the Department (or any successor process).
  - Reference: 49 U.S.C. § 311(b) (2017)

*Review Commissions:* The [Federal Aviation] Administrator shall establish a committee that is independent of the [Federal Aviation Management Advisory] Council by converting the Air Traffic Services Subcommittee of the Council, as in effect on the date before the date of enactment of the Vision 100-Century of Aviation Reauthorization Act, into such committee. The committee shall be known as the Air Traffic Services Committee. . .The Committee shall have the following specific responsibilities: To review, approve, and monitor the strategic plan for the air traffic control system. . .To review and approve

methods to accelerate air traffic control modernization and improvements in aviation safety related to air traffic control and procurements of air traffic control equipment in excess of \$100,000,000. . . To review and approve the Administrator's appointment of a Chief Operating Officer under section 106(r). . . review and approve the Administrator's plans for any major reorganization of the Administration that would impact on the management of the air traffic control system; review and approve the Administrator's cost accounting and financial management structure and technologies to help ensure efficient and cost-effective air traffic control operation.

- Reference: 49 U.S.C. § 106(p)(7) (2017)

*Advisory Commissions:* Within 3 months after the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996, the [Federal Aviation] Administrator shall establish an advisory council which shall be known as the Federal Aviation Management Advisory Council. With respect to Administration management, policy, spending, funding, and regulatory matters affecting the aviation industry, the Council may submit comments, recommended modifications, and dissenting views to the Administrator.

- Reference: 49 U.S.C. § 106(p)(1) (2017)
- The Secretary of Transportation shall establish a Council on Credit and Finance in accordance with this section. . . The Council shall. . . make recommendations to the Secretary regarding the selection of projects to receive assistance under such programs.
  - Reference: 49 U.S.C. § 117 (2017)
- The Secretary of Transportation may appoint advisory committees to consult with and advise the Secretary in carrying out the duties and powers of the Secretary.
  - Reference: 49 U.S.C. § 325(a) (2017)
- The [Minority Resource] Center has an advisory committee.
  - Reference: 49 U.S.C. § 332(c) (2017)

*Action Require Outside Approval:* With respect to historic sites, the Secretary may make a finding of de minimis impact [required for transportation programs or projects] only if. . . the finding of the Secretary has received written concurrence from the applicable State historic preservation officer or tribal historic preservation officer (and from the Advisory Council on Historic Preservation if the Council is participating in the consultation process).

- Reference: 49 U.S.C. § 303(d)(2)(B) (2017)
- With respect to parks, recreation areas, and wildlife or waterfowl refuges the Secretary may make a finding of de minimis impact [required for transportation programs or projects] only if. . . the finding of the Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.
  - Reference: 49 U.S.C. § 303(d)(3)(B) (2017)
- If, in an analysis required under the National Environmental Policy Act of 1969, the Secretary determines that there is no feasible or prudent alternative to avoid use of a historic site, the Secretary may. . . request from the applicable preservation officer, the Council, and the Secretary of the interior a concurrence that the determination is sufficient to satisfy subsection (c)(1) [no prudent and feasible alternative to using that land]. If the applicable preservation officer, the Council, and the Secretary of the Interior each provide a concurrence requested under subparagraph (A)(iii), no further analysis under subsection (c)(1) shall be required. . . To satisfy subsection (c)(2) [program or

project includes all possible planning to minimize harm], the applicable preservation officer, the Council, and the Secretary of the Interior shall concur in the treatment of the applicable historic site described in the memorandum of agreement or programmatic agreement developed under section 306108 of title 54.

- Reference: 49 U.S.C. § 303(e) (2017)

*Legislative Veto:* None

*Adjudication:*<sup>338</sup> None

### **Federal Aviation Administration**

*Date of Creation:* August 23, 1958<sup>339</sup>

*Statute:* 49 U.S.C. § 106 (2017)

*Authorizing Language:* The Federal Aviation Administration is an administration in the Department of Transportation.

- Reference: 49 U.S.C. § 106(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* Except as provided in subsections (a) and (g) of section 40122 [FAA personnel management system], the Administrator is authorized, in the performance of the functions of the Administrator, to appoint, transfer, and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out functions of the Administrator and the Administration. In fixing compensation and benefits of officers and employees, the Administrator shall not engage in any type of bargaining, except to the extent provided for in section 40122(a), nor shall the Administrator be bound by any requirement to establish such compensation or benefits at particular levels.

- Reference: 49 U.S.C. § 106(l)(1) (2017)

*Limitation on Appointment:* The Administrator must be a citizen of the United States; be a civilian; and have experience in a field directly related to aviation.

- Reference: 49 U.S.C. § 106(c) (2017)
- The Deputy Administrator shall be a citizen of the United States and have experience in a field directly related to aviation. An officer on active duty in an armed force may be appointed as Deputy Administrator. However, if the Administrator is a former regular officer of an armed force, the Deputy Administrator may not be an officer on active duty in an armed force, a retired regular officer of an armed force, or a former regular officer of an armed force.
  - Reference: 49 U.S.C. § 106(d)(1) (2017)
- The Administrator and the Deputy Administrator may not have a pecuniary interest in, or own stock in or bonds of, an aeronautical enterprise, or engage in another business, vocation, or employment.
  - Reference: 49 U.S.C. § 106(e) (2017)
- The Chief Operating Officer shall have a demonstrated ability in management and knowledge of or experience in aviation.
  - Reference: 49 U.S.C. § 106(r)(1)(B) (2017)

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<sup>338</sup> Employs administrative law judges. Association of Administrative Law Judges. “Agencies Employing Administrative Law Judges,” <http://www.aalj.org/agencies-employing-administrative-law-judges> (accessed October 30, 2017).

<sup>339</sup> Federal Aviation Act of 1958, Pub. L. No. 85-726, 72 Stat. 731 (1958).

- The Chief NextGen Officer shall have a demonstrated ability in management and knowledge of or experience in aviation and systems engineering.
  - Reference: 49 U.S.C. § 106(s)(1)(B) (2017)
- The Director [of the Aviation Safety Whistleblower Investigation Office] shall have a demonstrated ability in investigations and knowledge of or experience in aviation.
  - Reference: 49 U.S.C. § 106(t)(2)(B) (2017)

*Party Balancing:* N/A

*Fixed Terms:* The term of office for any individual appointed as Administrator after August 23, 1994, shall be 5 years.

- Reference: 49 U.S.C. § 106(b) (2017)
- The Chief Operating Office shall be appointed for a term of 5 years.
  - Reference: 49 U.S.C. § 106(r)(1)(C) (2017)
- The Chief NextGen Officer shall be appointed for a term of 5 years.
  - Reference: 49 U.S.C. § 106(s)(1)(C)
- The Director [of the Aviation Safety Whistleblower Investigation Office] shall be appointed for a term of 5 years.
  - Reference: 49 U.S.C. § 106(t)(2)(C) (2017)

*Staggered Terms:* N/A

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The head of the Administration is the Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 49 U.S.C. § 106(b) (2017)

*OMB Review:* None<sup>340</sup>

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* On February 1 and August 1 of each year the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a letter listing each deadline the Administrator missed under this subparagraph during the 6-month period ending on such date, including an explanation for missing the deadline and a projected date on which the action that was subject to the deadline will be taken.

- Reference: 49 U.S.C. § 106(f)(3)(A) (2017)
- The Chief Operating Officer shall prepare and transmit to the . . . Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an annual management report containing such information as may be prescribed by the Secretary.

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<sup>340</sup> But see, Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget “Bypass” Authorities (Feb. 20, 2001), *available at* <http://www.citizen.org/documents/OMBDocument1.pdf> (suggesting the FAA is an agency with statutorily-based budgetary and legislative “bypass” provisions). See also 49 U.S.C. § 48109 (2017) (when the Administrator submits any budget or legislative information to the Secretary, President, or OMB, the Administrator shall concurrently submit the same to Congress).

- Reference: 49 U.S.C. § 106(r)(4) (2017)
- The Chief NextGen Officer shall prepare and transmit to the . . . Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Science, Space, and Technology of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate an annual management report containing such information as may be prescribed by the Secretary.
  - Reference: 49 U.S.C. § 106(s)(4) (2017)
- Not later than October 1 of each year, the Director [of the Aviation Safety Whistleblower Investigation Office] shall submit to Congress a report containing information on the number of submissions of complaints and information received by the Director under paragraph (3)(A)(i) in the preceding 12-month period; summaries of those submissions; summaries of further investigations and corrective actions recommended in response to the submissions; and summaries of the responses of the Administrator to such recommendations.
  - Reference: 49 U.S.C. § 106(t)(7) (2017)

*Review Commissions:* The Administrator shall establish a committee that is independent of the [Federal Aviation Management Advisory] Council by converting the Air Traffic Services Subcommittee of the Council, as in effect on the date before the date of enactment of the Vision 100-Century of Aviation Reauthorization Act, into such committee. The committee shall be known as the Air Traffic Services Committee. . . The Committee shall have the following specific responsibilities: To review, approve, and monitor the strategic plan for the air traffic control system. . . To review and approve methods to accelerate air traffic control modernization and improvements in aviation safety related to air traffic control and procurements of air traffic control equipment in excess of \$100,000,000. . . To review and approve the Administrator’s appointment of a Chief Operating Officer under section 106(r). . . review and approve the Administrator’s plans for any major reorganization of the Administration that would impact on the management of the air traffic control system; review and approve the Administrator’s cost accounting and financial management structure and technologies to help ensure efficient and cost-effective air traffic control operation.

- Reference: 49 U.S.C. § 106(p)(7) (2017)

*Advisory Commissions:* Within 3 months after the date of the enactment of the Air Traffic Management System Performance Improvement Act of 1996, the Administrator shall establish an advisory council which shall be known as the Federal Aviation Management Advisory Council. With respect to Administration management, policy, spending, funding, and regulatory matters affecting the aviation industry, the Council may submit comments, recommended modifications, and dissenting views to the Administrator.

- Reference: 49 U.S.C. § 106(p)(1) (2017)

*Action Require Outside Approval:* The Administrator may not issue a proposed regulation or final regulation that is likely to result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of \$250,000,000 or more (adjusted annually for inflation beginning with the year following the date of the enactment of the Wendell H. Ford Aviation Investment and Reform Act for the 21<sup>st</sup> Century) in any year, or any regulation which is significant, unless the Secretary of Transportation approves the issuance of the regulation in advance.

- Reference: 49 U.S.C. § 106(f)(3)(B) (2017)

*Legislative Veto:* None  
*Adjudication:*<sup>341</sup> None

### **Federal Highway Administration**

*Date of Creation:* October 15, 1966<sup>342</sup>

*Statute:* 49 U.S.C. § 104 (2017)

*Authorizing Language:* The Federal Highway Administration is an administration in the Department of Transportation.

- Reference: 49 U.S.C. § 104(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The head of the Administration is the Administrator who is appointed by the President, by and with the advice and consent of the Senate.

- Reference: 49 U.S.C. § 104(b)(1) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Federal Motor Carrier Safety Administration**

*Date of Creation:* December 9, 1999<sup>343</sup>

*Statute:* 49 U.S.C. § 113 (2017)

*Authorizing Language:* The Federal Motor Carrier Safety Administration shall be an administration of the Department of Transportation.

- Reference: 49 U.S.C. § 113(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

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<sup>341</sup> Employs administrative law judges. Association of Administrative Law Judges. “Agencies Employing Administrative Law Judges,” <http://www.aalj.org/agencies-employing-administrative-law-judges> (accessed October 30, 2017).

<sup>342</sup> Department of Transportation Act, Pub. L. No. 89-670, 80 Stat. 931 (1966).

<sup>343</sup> Motor Carrier Safety Improvement Act of 1999, Pub. L. No. 106-159, 113 Stat. 1749 (1999).

*Agency Specific Personnel:* None

*Limitation on Appointment:* The Administrator [of the Federal Motor Carrier Safety Administration]. . . shall be an individual with professional experience in motor carrier safety.

- Reference: 49 U.S.C. § 113(c) (2017)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The head of the Administration shall be the Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 49 U.S.C. § 113(c) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Federal Railroad Administration**

*Date of Creation:* October 15, 1966<sup>344</sup>

*Statute:* 49 U.S.C. § 103 (2017)

*Authorizing Language:* The Federal Railroad Administration is an administration in the Department of Transportation.

- Reference: 49 U.S.C. § 103(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* The Administrator. . . shall be an individual with professional experience in railroad safety, hazardous materials safety, or other transportation safety.

- Reference: 49 U.S.C. § 103(d) (2017)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

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<sup>344</sup> Department of Transportation Act, Pub. L. No. 89-670, 80 Stat. 931 (1966).

*Who is Head of Agency:* The head of the Administration shall be the Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 49 U.S.C. § 103(d) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* Beginning with fiscal year 2010 and each fiscal year thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, at the same time as the President's budget submission, the Administration's performance goals and schedule developed under paragraph (1), including an assessment of the progress of the Administration toward achieving its performance goals.

- Reference: 49 U.S.C. § 103(k)(3) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Federal Transit Administration**

*Date of Creation:* July 9, 1964<sup>345</sup>

*Statute:* 49 U.S.C. § 107 (2017)

*Authorizing Language:* The Federal Transit Administration is an administration in the Department of Transportation.

- Reference: 49 U.S.C. § 107(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The head of the Administration is the Administrator who is appointed by the President, by and with the advice and consent of the Senate.

- Reference: 49 U.S.C. § 107(b) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

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<sup>345</sup> Established as the Urban Mass Transportation Administration. Urban Mass Transportation Act of 1964, Pub. L. No. 88-365 (1964). Congress renamed the agency the Federal Transit Administration in 1991. Intermodal Surface Transportation Efficiency Act of 1991, Pub. L. No. 102-240, 105 Stat. 1914 (1991).

*Review Commissions:* None  
*Advisory Commissions:* None  
*Action Require Outside Approval:* None  
*Legislative Veto:* None  
*Adjudication:* None

### **Maritime Administration**

*Date of Creation:* May 24, 1950<sup>346</sup>

*Statute:* 49 U.S.C. § 109 (2017)

*Authorizing Language:* The Maritime Administration is an administration in the Department of Transportation.

- Reference: 49 U.S.C. § 109(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* The Deputy Administrator shall be Acting Administrator during the absence or disability of the Administrator, and, unless the Secretary designates another individual, during a vacancy in the office of Administrator.

- Reference: 49 U.S.C. § 109(c) (2017)

*Who is Head of Agency:* The head of the Maritime Administration is the Maritime Administrator, who is appointed by the President by and with the advice and consent of the Senate.

- Reference: 49 U.S.C. § 109(b) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **National Highway Traffic Safety Administration**

*Date of Creation:* December 31, 1970<sup>347</sup>

*Statute:* 49 U.S.C. § 105 (2017)

*Authorizing Language:* The National Highway Traffic Safety Administration is an administration in the Department of Transportation.

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<sup>346</sup> Reorganization Plan No. 21 of 1950.

<sup>347</sup> Federal-Aid Highway Act of 1970, Pub. L. No. 91-605, 84 Stat. 1713 (1970).

- Reference: 49 U.S.C. § 105(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The head of the Administration is the Administrator who is appointed by the President, by and with the advice and consent of the Senate.

- Reference: 49 U.S.C. § 105(b) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Pipeline and Hazardous Materials Safety Administration**

*Date of Creation:* November 30, 2004<sup>348</sup>

*Statute:* 49 U.S.C. § 108 (2017)

*Authorizing Language:* The Pipeline and Hazardous Materials Safety Administration shall be an administration in the Department of Transportation.

- Reference: 49 U.S.C. § 108(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* The Administrator. . . shall be an individual with professional experience in pipeline safety, hazardous materials safety, or other transportation safety.

- Reference: 49 U.S.C. § 108(c) (2017)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

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<sup>348</sup> Norman Y. Mineta Resaerch and Special Programs Improvement Act, Pub. L. No. 108-426, 118 Stat. 2423 (2004).

*Who is Head of Agency:* The head of the Administration shall be the Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference:

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Saint Lawrence Seaway Development Corporation**

*Date of Creation:* May 13, 1954<sup>349</sup>

*Statute:* 33 U.S.C. §§ 981-990; 49 U.S.C. § 110 (2017)

*Authorizing Language:* There is hereby created, subject to the direction and supervision of the Secretary of Transportation, a body corporate to be known as the Saint Lawrence Seaway Development Corporation.

- Reference: 33 U.S.C. § 981 (2017)
- The Saint Lawrence Seaway Development Corporation established under section 1 of the Act of May 13, 1954, is subject to the direction and supervision of the Secretary of Transportation.
- Reference: 49 U.S.C. § 110(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The management of the corporation shall be vested in an Administrator who shall be appointed by the President.

- Reference: 33 U.S.C. § 982(a) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The Corporation. . . shall determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations.

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<sup>349</sup> Pub. L. No. 358, 68 Stat. 92 (1954).

- Reference: 33 U.S.C. § 984(a)(9) (2017)
- The Corporation. . . may retain toll revenues for the purposes of eventual reinvestment in the Seaway; may provide services and facilities necessary in the maintenance and operation of the seaway, including but not limited to providing, at reasonable prices, services to vessels using the seaway and to visitors to the seaway, but not to include overnight housing accommodations for visitors. . . and shall be credited with amounts received from any of the activities authorized by clauses (10) and (11) of this subsection.<sup>350</sup>
  - Reference: 33 U.S.C. § 984(a)(10)-(13) (2017)
- Amounts credited under subsection (a)(12) are available to pay any obligation or expense of the Corporation under this chapter, except as specifically provided in subsection (a)(12) of this section.<sup>351</sup>
  - Reference: 33 U.S.C. § 984(b) (2017)
- To finance its activities, the Corporation may issue revenue bonds payable from corporate revenue to the Secretary of the Treasury. The total face value of all bonds so issued shall not be greater than \$140,000,000. Not more than fifty per centum of the bonds may be issued during any one year.
  - Reference: 33 U.S.C. § 985 (2017)

*Reporting Requirements:* The Corporation, after July 17, 1957, shall submit special reports to the Congress whenever there is proposed a new feature, design, or phase of the seaway project, not heretofore included in estimates, or whenever there is proposed an abandonment of any feature, design, or phase, heretofore included in estimates, involving an estimated value exceeding one million dollars, and such special reports shall include justification for the modifications.

- Reference: 33 U.S.C. § 989(b) (2017)

*Review Commissions:* None

*Advisory Commissions:* There is established the Advisory Board of the Saint Lawrence Seaway Development Corporation. . . The Advisory Board. . . shall review the general policies of the Corporation, including its places in connection with design and construction of facilities and the establishment of rules of measurement for vessels and cargo and rates of charges or tolls and shall advise the Administrator with respect thereto.

- Reference: 33 U.S.C. § 982(b) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **DEPARTMENT OF VETERANS AFFAIRS**

*Date of Creation:* October 25, 1998<sup>352</sup>

*Statute:* 38 U.S.C. §§ 301-546 (2017)

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<sup>350</sup> Clauses (10), (11), and (12) were redesignated (11), (12), and (13). Pub. L. No. 97-369; 97 Stat. 1765 (1982).

<sup>351</sup> *Id.*

<sup>352</sup> The agency was established as an executive department in 1998. Department of Veterans Affairs Act, Pub. L. No. 100-527, 102 Stat. 2635 (1988). Prior to that, the agency existed as an administration without department status. Executive Order No. 5,398 (1930).

*Authorizing Language:* The Department of Veterans Affairs is an executive department of the United States.

- Reference: 38 U.S.C. § 301(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* The Under Secretary for Health shall be appointed without regard to political affiliation or activity and solely on the basis of demonstrated ability in the medical profession, in health-care administration and policy formulation, or in health-care fiscal management and on the basis of substantial experience in connection with the programs of the Veterans Health Administration or programs of similar content and scope.

- Reference: 38 U.S.C. § 305(a)(2) (2017)
- The Under Secretary for Benefits shall be appointed without regard to political affiliation or activity and solely on the basis of demonstrated ability in fiscal management and the administration of programs within the Veterans Benefits Administration or programs of similar content and scope.
  - Reference: 38 U.S.C. § 306(a) (2017)
- Each individual appointed as Director of Construction and Facilities Management shall be an individual who holds an undergraduate or master's degrees in architectural design or engineering and has substantial professional experience in the area of construction project management.
  - Reference: 38 U.S.C. § 312A(b) (2017)

*Party Balancing:* N/A

*Fixed Terms:* The Director [for Minority Veterans] shall be appointed for a term of six years.

- Reference: 38 U.S.C. § 317(b) (2017)
- The Director [for Women Veterans] shall be appointed for a term of six years.
  - Reference: 38 U.S.C. § 318(b) (2017)

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* Unless the President designates another officer of the Government, the Deputy Secretary shall be Acting Secretary of Veterans Affairs during the absence or disability of the Secretary or in the event of a vacancy in the office of the Secretary.

- Reference: 38 U.S.C. § 304 (2017)

*Who is Head of Agency:* There is a Secretary of Veterans Affairs, who is the head of the Department and is appointed by the President, by and with the advice and consent of the Senate.

- Reference: 38 U.S.C. § 303 (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* Whenever the Inspector General, in carrying out the duties and responsibilities established under the Inspector General Act of 1978, issues a work product the Inspector General shall submit the work product to the Secretary; the

Committee on Veterans Affairs, the Committee on Homeland Security and Governmental Affairs, and the Committee on Appropriations of the Senate; the Committee on Veterans Affairs, the Committee on Oversight and Government Reform, and the Committee on Appropriations of the House of Representatives. . .and any Member of Congress upon request; and the Inspector General shall submit all final work products to. . .any Member of Congress upon request.

- Reference: 38 U.S.C. § 312(c)(1) (2017)
- The Secretary shall include in documents submitted to Congress by the Secretary in support of the President’s budget for each fiscal year detailed information on the budget for the Center [Minority for Veterans]; the Secretary’s opinion as to whether the resources (including the number of employees) proposed in the budget for that fiscal year are adequate to enable the Center to comply with its statutory and regulatory duties; and a report on the activities and significant accomplishments of the Center during the preceding fiscal year.
  - Reference: 38 U.S.C. § 317(f) (2017)
- The Secretary shall include in documents submitted to Congress by the Secretary in support of the President’s budget for each fiscal year detailed information on the budget for the Center [for Women Veterans]; the Secretary’s opinion as to whether the resources (including the number of employees) proposed in the budget for that fiscal year are adequate to enable the Center to comply with its statutory and regulatory duties; and a report on the activities and significant accomplishments of the Center during the preceding fiscal year.
  - Reference: 38 U.S.C. § 318(f) (2017)
- The Secretary shall include in each annual Performance and Accountability report submitted by the Secretary to Congress a description of the activities of the Office [of Survivors Assistance] during the fiscal year covered by such report.
  - Reference: 38 U.S.C. § 321(e) (2017)
- Not later than June 30 of each calendar year, beginning with June 30, 2017, the Assistant Secretary [for Accountability and Whistleblower Protection] shall submit to the Committee on Veterans’ Affairs of the Senate and the Committee on Veterans’ Affairs of the House of Representatives a report on the activities of the Office during the calendar year in which the report is submitted.
  - Reference: 38 U.S.C. § 323(f)(1) (2017)
- If the Secretary receives a recommendation for disciplinary action under subsection (c)(1)(I) and does not take or initiate the recommended disciplinary action before the date that is 60 days after the date on which the Secretary received the recommendation, the Secretary shall submit to the Committee on Veterans’ Affairs of the Senate and the Committee on Veterans’ Affairs of the House of Representatives a detailed justification for not taking or initiating such disciplinary action.
  - Reference: 38 U.S.C. § 323(f)(2) (2017)
- The Secretary may not in any fiscal year implement an administrative reorganization described in subsection (c) unless the Secretary first submits to the appropriate committees of the Congress a report containing a detailed plan and justification for the administrative reorganization. No action to carry out such reorganization may be taken after the submission of such report until the end of a 45-day period following the date of

the submission of the report, not less than 30 days of which shall be days during which Congress shall have been in continuous session.

- Reference: 38 U.S.C. § 510(b) (2017)
- Not less than 30 days before the date on which the implementation of any reorganization described in paragraph (2) [involving 30 or more employees] of a unit in the Central Office is to begin, the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a notification regarding the reorganization.
  - Reference: 38 U.S.C. § 510(d)(1) (2017)
- Not later than 45 days after the end of each calendar quarter, the Assistant Secretary for Human Resources and Administration shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report summarizing the employment discrimination complaints filed against the individuals referred to in paragraph (2) [agency leadership] during such quarter.
  - Reference: 38 U.S.C. § 516(e) (2017)
- Not later than April 1 each year, the Assistant Secretary shall submit to the committees referred to in paragraph (1)(A) [Veterans Affairs committees] a report on the complaints covered by paragraph (1) [employment discrimination by agency leadership] during the preceding year, including the number of such complaints filed during that year and the status and resolution of the investigation of such complaints.
  - Reference: 38 U.S.C. § 516(e)(4) (2017)
- Not later than 30 days after the end of each fiscal quarter, the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on covered conferences [sponsored by the Department, attended by 50 or more people, estimated to cost the Department at least \$20,000].
  - Reference: 38 U.S.C. § 517(a) (2017)
- For any fiscal year during which the Secretary provides assistance under this section [adaptive sports programs for disabled veterans and members of the Armed Forces], the Secretary shall submit to Congress a report on the use of funds provided under this section.
  - Reference: 38 U.S.C. § 521A(k) (2017)
- The Secretary shall make available to the public, and on a regular basis provide to the appropriate committees of the Congress, copies of all completed evaluative research studies and summaries of evaluations of program impact and effectiveness carried out, and tabulations and analyses of all data collected, under this section.
  - Reference: 38 U.S.C. § 527(c) (2017)
- The Secretary shall submit annually, at the close of each fiscal year, a report in writing to Congress. Each such report shall give an account of all moneys received and disbursed by the Department for such fiscal year; describe the work done during such fiscal year; and state the activities of the Department for such fiscal year.
  - Reference: 38 U.S.C. § 529 (2017)
- The Secretary shall, within 60 days after receiving each report under paragraph (1) [from the Advisory Committee on Former Prisoners of War], submit to the Congress a copy of the report, together with any comments concerning the report that the Secretary considers appropriate.

- Reference: 38 U.S.C. § 541(c)(2) (2017)
- The Secretary shall, within 60 days after receiving each report under paragraph (1) [from the Advisory Committee on Women Veterans], submit to the Congress a copy of the report, together with any comments concerning the report that the Secretary considers appropriate.
  - Reference: 38 U.S.C. § 542(c)(2) (2017)
- The Secretary shall, within 60 days after receiving each report under paragraph (1) [from the Advisory Committee on Women Veterans], submit to the Congress a copy of the report, together with any comments concerning the report that the Secretary considers appropriate.
  - Reference: 38 U.S.C. § 543(c)(2) (2017)
- The Secretary shall, within 60 days after receiving each report under paragraph (1) [from the Advisory Committee on Minority Veterans], submit to the Congress a copy of the report, together with any comments concerning the report that the Secretary considers appropriate.
  - Reference: 38 U.S.C. § 544(c)(2) (2017)
- The Secretary shall, within 90 days after receiving each report under paragraph (1) [from the Advisory Committee on the Readjustment of Veterans], submit to the Congress a copy of the report, together with any comments concerning the report that the Secretary considers appropriate.
  - Reference: 38 U.S.C. § 545(c)(2) (2017)
- Not later than 90 days after the receipt of a report required under subsection (d)(1) [from the Advisory Committee on Disability Compensation], the Secretary shall transmit to the Committee on Veterans Affairs of the Senate and the Committee on Veterans Affairs of the House of Representatives a copy of such report, together with such comments and recommendations concerning such report as the Secretary considers appropriate.
  - Reference: 38 U.S.C. § 546(e) (2017)

*Review Commissions:* None

*Advisory Commissions:* There is established an interagency committee to be known as the Department of Veterans Affairs-Department of Defense Joint Executive Committee. . . The Committee shall recommend to the Secretaries strategic direction for the joint coordination and sharing efforts between and within the two Departments under section 8111 of this title and shall oversee implementation of those efforts.

- Reference: 38 U.S.C. § 320 (2017)
- The Secretary shall establish an advisory committee to be known as the Advisory Committee on Former Prisoners of War. . . The Secretary shall, on a regular basis, consult with and seek the advice of a Committee with respect to the administration of benefits under this title for veterans who are former prisoners of war and the needs of such veterans with respect to compensation, health care, and rehabilitation.
  - Reference: 38 U.S.C. § 541 (2017)
- The Secretary shall establish an advisory committee to be known as the Advisory Committee on Women Veterans. . . The Secretary shall, on a regular basis, consult with and seek the advice of the Committee with respect to the administration of benefits by the Department for women veterans, reports and studies pertaining to women veterans and the needs of women veterans with respect to compensation, health care, rehabilitation,

outreach, and other benefits and programs administered by the Department, including the Center for Women Veterans.

- Reference: 38 U.S.C. § 542 (2017)
- There is in the Department an advisory committee known as the Advisory Committee on Prosthetics and Special-Disabilities Programs. . .The Secretary shall, on a regular basis, consult with and seek the advice of the Committee.
  - Reference: 38 U.S.C. § 543 (2017)
- The Secretary shall establish an advisory committee to be known as the Advisory Committee on Minority Veterans. . .The Secretary shall, on a regular basis, consult with and seek advice of the Committee with respect to the administration of benefits by the Department for veterans who are minority group members, reports and studies pertaining to such veterans and the need of such veterans with respect to compensation, health care, rehabilitation, outreach, and other benefits and programs administered by the Department, including the Center for Minority Veterans.
  - Reference: 38 U.S.C. § 544 (2017)
- There is in the Department the Advisory Committee on the Readjustment of Veterans. . .The Secretary shall, on a regular basis, consult with and seek the advice of the Committee with respect to the provision by the Department of benefits and services to veterans in order to assist veterans in the readjustment to civilian life.
  - Reference: 38 U.S.C. § 545 (2017)
- There is in the Department the Advisory Committee on Disability Compensation. . .The Secretary shall, on a regular basis, consult with and seek the advice of the Committee with respect to the maintenance and periodic readjustment of the schedule for rating disabilities under section 1155 of this title.
  - Reference: 38 U.S.C. § 546 (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Board of Veterans Appeals**

*Date of Creation:* September 2, 1958<sup>353</sup>

*Statute:* 38 U.S.C. §§ 301; 7101-7112 (2017)

*Authorizing Language:* The Department is composed of the following: . . .The Board of Veterans' Appeals.

- Reference: 38 U.S.C. § 301(c)(5) (2017)
- There is in the Department a Board of Veterans' Appeals.
  - Reference: 38 U.S.C. § 7101(a) (2017)

*Commissioners/Board Members:* The Board shall consist of a Chairman, a Vice Chairman, and such number of members as may be found necessary in order to conduct hearings and dispose of appeals properly before the Board in a timely manner.<sup>354</sup>

- Reference: 38 U.S.C. § 7101(a) (2017)

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<sup>353</sup> Pub. L. No. 85-857, 72 Stat. 1105 (1958).

<sup>354</sup> Proceedings institute before the Board may be assigned to an individual member or to a panel of not less than three members. 38 U.S.C. § 7102(a) (2017)

- The Chairman shall be appointed by the President, by and with the advice and consent of the Senate, for a term of six years.
  - Reference: 38 U.S.C. § 7101(b)(1) (2017)
- The members of the Board of Veterans' Appeals other than the Chairman (and including the Vice Chairman) shall be appointed by the Secretary, with the approval of the President, based upon recommendations of the Chairman.
  - Reference: 38 U.S.C. § 7101A(a) (2017)

*Quorum Rules:* None

*Agency Specific Personnel:* None

*Limitation on Appointment:* The Chairman shall be subject to the same ethical and legal limitations and restrictions concerning involvement in political activities as apply to judges of the United States Court of Appeals for Veterans Claims.

- Reference: 38 U.S.C. § 7101(b)(1) (2017)
- Each member of the Board shall be a member in good standing of the bar of a State.
  - Reference: 38 U.S.C. § 7101A(a)(2) (2017)

*Party Balancing:* None

*Fixed Terms:* The Chairman shall be appointed. . .for a term of six years.

- Reference: 38 U.S.C. § 7101(b)(1) (2017)

*Staggered Terms:* None

*For Cause:* The Chairman may be removed by the President for misconduct, inefficiency, neglect of duty, or engaging in the practice of law or for physical or mental disability which, in the opinion of the President, prevents the proper execution of the Chairman's duties. The Chairman may not be removed from office by the President on any other grounds. Any such removal may only be made after notice and opportunity for hearing.

- Reference: 38 U.S.C. § 7101(b)(2) (2017)
- If the Secretary, based upon the recommendation of the Chairman [after a performance review panel proceeding], determines that a member of the Board should be noncertified, that member's appointment as a member of the Board shall be terminated and that member shall be removed from the Board.
  - Reference: 38 U.S.C. § 7101A(c)-(d) (2017)

*Serve President:* None

*Continuation until Replacement:* If, upon the expiration of the term for office for which the Chairman was appointed, the position of Chairman would become vacant, the individual serving as Chairman may, with the approval of the Secretary, continue to serve as Chairman until either appointed for another term, or a successor is appointed, but not beyond the end of the Congress during which the term of office expired.

- Reference: 38 U.S.C. § 7101(b)(3) (2017)

*Acting Service Rules:* The Chairman may from time to time designate one or more employees of the Department to serve as acting members of the Board. Except as provided in subparagraph (B), any such designation shall be for a period not to exceed 90 days, as determined by the Chairman. An individual designated as an acting member of the Board may continue to serve as an acting member of the Board in the making of any determination on a proceeding for which the individual was designated as an acting member of the Board, notwithstanding the termination of the period of designation of the individual as an acting member of the Board under subparagraph (A) or (C). An individual may not serve as an acting member of the Board for more than 270 days

during any one-year period. At no time may the number of acting members exceed 20 percent of the total of the number of Board members and acting Board members combined.

- Reference: 38 U.S.C. § 7101(c)(1) (2017)

*Who is Head of Agency:* The Board is under the administrative control and supervision of a chairman directly responsible to the Secretary.

- Reference: 38 U.S.C. § 7101(a) (2017)
- The Chairman shall be appointed by the President, by and with the advice and consent of the Senate, for a term of six years.
- Reference: 38 U.S.C. § 7101(b)(1) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* In each annual report to the Congress under section 529 of this title, the Secretary shall provide detailed descriptions of the activities undertaken and plans made in the fiscal year for which the report is made with respect to the authority provided by paragraph (1) of this subsection [acting members of the Board].

- Reference: 38 U.S.C. § 7101(c)(2) (2017)
- After the end of each fiscal year, the Chairman shall prepare a report on the activities of the Board during that fiscal year and the projected activities of the Board for the fiscal year during which the report is prepared and for the next fiscal year. Such report shall be included in the documents providing detailed information on the budget for the Department that the Secretary submits to the Congress in conjunction with the President's budget submission for any fiscal year pursuant to section 1105 of title 31.
- Reference: 38 U.S.C. § 7101(d) (2017)

*Review Commissions:* None

*Advisory Commissions:* When, in the judgment of the Board, expert medical opinion, in addition to that available within the Department, is warranted by the medical complexity or controversy involved in an appeal case, the Board may secure an advisory medical opinion from one or more independent medical experts who are not employees of the Department.

- Reference: 38 U.S.C. § 7109(a) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **National Cemetery Administration**

*Date of Creation:* June 18, 1973<sup>355</sup>

*Statute:* 38 U.S.C. §§ 301; 2400-2414 (2017)

*Authorizing Language:* The Department is composed of the following: . . . The National Cemetery Administration.

- Reference: 38 U.S.C. § 301(c)(4) (2017)

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<sup>355</sup> The National Cemetery System was established in the Veterans' Administration in 1973. National Cemeteries Act of 1973, Pub. L. No. 93-43, 87 Stat. 99 (1973). Congress changed the agency's name to the National Cemetery Administration in 1998. Veterans Programs Enhancement Act of 1998, Pub. L. No. 105-368, 112 Stat. 3315 (1998).

- There shall be within the Department a National Cemetery Administration.
  - Reference: 38 U.S.C. § 2400(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* There is in the Department an Under Secretary for Memorial Affairs, who is appointed by the President, by and with the advice and consent of the Senate. The Under Secretary is the head of the National Cemetery Administration as established in section 2400 of this title and shall perform such functions as may be assigned by the Secretary.

- Reference: 38 U.S.C. § 307 (2017)
- The National Cemetery Administration shall be headed by the Under Secretary for Memorial Affairs, who shall perform such functions as may be assigned by the Secretary.
  - Reference: 38 U.S.C. § 2400(a) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* As additional lands are needed for national cemeteries, they may be acquired by the Secretary by . . . gift (including donations from States or political subdivisions thereof). . . as the Secretary determines to be in the best interest of the United States.

- Reference: 38 U.S.C. § 2406 (2017)
- Subject to such restrictions as the Secretary may prescribe the Secretary may accept gifts, devises, or bequests from legitimate societies and organizations or reputable individuals, made in any manner, which are made for the purpose of beautifying national cemeteries or are determined to be beneficial to such cemetery.
  - Reference: 38 U.S.C. § 2407 (2017)
- There is established on the book of the Treasury an account to be known as the “National Cemetery Administration Facilities Operation Fund.” The Fund shall consist of the following: proceeds from the lease of land or buildings under this section; proceeds of agricultural licenses of lands of the National Cemetery Administration; any other amounts appropriated to or otherwise authorized for deposit in the Fund by law. Amounts in the Fund shall be available to cover costs incurred by the National Cemetery Administration in the operation and maintenance of property of the Administration. Amounts in the Fund shall remain available until expended.
  - Reference: 38 U.S.C. § 2412(e) (2017)

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* There shall be appointed by the Secretary an Advisory Committee on Cemeteries and Memorials. The Secretary shall advise and consult with the Committee from time to time with respect to the administration of the cemeteries for which the Secretary is responsible, and with respect to the selection of cemetery sites, the erection of appropriate memorials, and the adequacy of Federal burial benefits.

- Reference: 38 U.S.C. § 2401 (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Veterans Benefits Administration**

*Date of Creation:* July 21, 1930<sup>356</sup>

*Statute:* 38 U.S.C. §§ 301; 7701-7734 (2017)

*Authorizing Language:* The Department is composed of the following: . . .The Veterans Benefits Administration.

- Reference: 38 U.S.C. § 301(c)(3) (2017)
- There is in the Department of Veterans Affairs a Veterans Benefits Administration.
  - Reference: 38 U.S.C. § 7701(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* The Under Secretary for Benefits shall be appointed without regard to political affiliation or activity and solely on the basis of demonstrated ability in fiscal management and the administration of programs within the Veterans Benefits Administration or programs of similar content and scope.

- Reference: 38 U.S.C. § 308(a) (2017)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* There is in the Department an Under Secretary for Benefits, who is appointed by the President, by and with the advice and consent of the Senate. . .The Under Secretary for Benefits is the head of, and is directly responsible to the Secretary for the operations of, the Veterans Benefits Administration.

- Reference: 38 U.S.C. § 306(b) (2017)
- The Veterans Benefits Administration is under the Under Secretary for Benefits, who is directly responsible to the Secretary for the operations of the Administration.
  - Reference: 38 U.S.C. § 7701(b) (2017)

*OMB Review:* None

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<sup>356</sup> The Bureau of Pensions was established in the new Veterans' Administration in 1930. Executive Order No. 5,398 (1930). The Veterans Benefits Administration was established in the Department of Veterans Affairs in 1991. Department of Veterans Affairs Codification Act, Pub. L. No. 102-83, 105 Stat. 378 (1991).

*Independent Litigating:* None  
*Independent Sources of Funding:* None  
*Reporting Requirements:* None  
*Review Commissions:* None  
*Advisory Commissions:* None  
*Action Require Outside Approval:* None  
*Legislative Veto:* None  
*Adjudication:* None

### **Veterans Health Administration**

*Date of Creation:* January 3, 1946<sup>357</sup>

*Statute:* 38 U.S.C., §§ 301; 7301-7474 (2017)

*Authorizing Language:* The Department is composed of the following: . . .The Veterans Health Administration.

- Reference: 38 U.S.C. § 301(c)(2) (2017)
- There is in the Department of Veterans Affairs a Veterans Health Administration.
  - Reference: 38 U.S.C. § 7301(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* Appointments under this chapter of health-care professionals to whom this section applies may be made only after qualifications have been satisfactorily established in accordance with regulations prescribed by the Secretary, without regard to civil service requirements [applies to appointment of physicians, dentists, podiatrists, optometrists, nurses, physicians assistants, expanded-function dental auxiliaries, chiropractors of the Veterans Health Administration].

- Reference: 38 U.S.C. § 7403 (2017)
- The Secretary, upon the recommendation of the Under Secretary for Health, may employ, without regard to civil service or classification laws, rules, or regulations, personnel as follows: [physicians, dentists, podiatrists, optometrists, nurses, physicians assistants, expanded-function dental auxiliaries, chiropractors, directors of medical centers and directors of Veterans Integrated Service Networks, librarians, and other professional, clerical, technical, and unskilled personnel of the Veterans Health Administration].
  - Reference: 38 U.S.C. § 7405 (2017)

*Limitation on Appointment:* The Under Secretary for Health shall be appointed without regard to political affiliation or activity and solely on the basis of demonstrated ability in the medical profession, in health-care administration and policy formulation, or in health-care fiscal management and on the basis of substantial experience in connection with the programs of the Veterans Health Administration or programs of similar content and scope.

- Reference: 38 U.S.C. § 305(a)(2) (2017)
- The Deputy Under Secretary for Health. . .shall be a qualified doctor of medicine.
  - Reference: 38 U.S.C. § 7306(a)(1) (2017)

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<sup>357</sup> Established as the Department of Medicine and Surgery of the Veterans' Administration and subsequently was redesignated the Veterans Health Services and Research Administration. Public L. No. 293, 50 Stat. 675 (1946). Congress changed the agency's name to the Veterans Health Administration in 1991. Department of Veterans Affairs Health-Care Personnel Act of 1991, Pub. L. No. 102-40, 105 Stat. 187 (1991).

- The Associate Deputy Under Secretary for Health. . .shall be a qualified doctor of medicine.
  - Reference: 38 U.S.C. § 7306(a)(2) (2017)
- Such Medical Directors as may be appointed to suit the needs of the Department. . .shall be either a qualified doctor of medicine or a qualified doctor of dental surgery or dental medicine.
  - Reference: 38 U.S.C. § 7306(a)(4) (2017)
- [The] Director of Nursing Service. . .shall be a qualified registered nurse.
  - Reference: 38 U.S.C. § 7306(a)(5) (2017)
- The Director of Physician Assistant Services. . .shall. . .be a qualified physician assistant.
  - Reference: 38 U.S.C. § 7306(a)(9) (2017)
- Of the [no more than 8] Assistant Under Secretaries for Health. . .not more than two may be persons qualified in the administration of health services who are not doctors of medicine, dental surgery, or dental medicines; one shall be a qualified doctor of dental surgery or dental medicine and who shall be directly responsible to the under Secretary for Health for the operation of the Dental Service; and one shall be a qualified physician trained in, or having suitable extensive experience in, geriatrics who shall be responsible to the Under Secretary for Health for evaluating all research, educational, and clinical health-care programs carried out in the Administration in the field of geriatrics and who shall serve as the principal advisor to the Under Secretary for Health with respect to such programs.
  - Reference: 38 U.S.C. § 7306(b) (2017)
- Any person appointed as Director [of the Office of Research Oversight] shall be an established expert in the field of medical research, administration of medical research programs, or similar fields; and qualified to carry out the duties of the Office based on demonstrated experience and expertise.
  - Reference: 38 U.S.C. § 7307(b) (2017)
- The Chief Officer [of the Readjustment Counseling Service] shall be appointed by the Under Secretary for Health from among individuals who are psychologists who hold a diploma as a doctorate in clinical or counseling psychology from an authority approved by the American Psychological Association and who have successfully undergone an internship approved by that association; are holders of a master in social work degree; or hold other such advanced degrees related to mental health as the Secretary considers appropriate; have at least three years of experience providing direct counseling services or outreach services in the Readjustment Counseling Service; meet the quality standards and requirements of the Department and are veterans who have served in combat as members of the Armed Forces.
  - Reference: 38 U.S.C. § 7309(b)(2) (2017)
- To be eligible for appointment to the positions in the Administration covered by subsection (b), a person must have the applicable qualifications set forth in that subsection [expertise requirements for physicians; dentists; nurses; the director of a hospital, domiciliary, center, or outpatient clinic; podiatrist; optometrist; pharmacist; psychologist; social worker; marriage and family therapist; licensed professional mental health counselor; chiropractor; peer specialist].
  - Reference: 38 U.S.C. § 7402 (2017)

- Except as provided in subparagraph (B) [relating to the Philippines and facilities located outside of the United States], the rates of pay for covered positions in the Department [registered nurse, physician’s assistant in the Veterans Health Administration] shall be established and adjusted in accordance with this section instead of subsection (b)(1) of section 7404 of this title or chapter 53 of title 5.
  - Reference: 38 U.S.C. § 7451 (2017)

*Party Balancing:* N/A

*Fixed Terms:* Except as provided in subsection (e) [chaplain], any appointment under this section shall be for a period of four years, with reappointment permissible for successive like periods [Deputy Under Secretary; Associate Deputy Under Secretary; Assistant Under Secretaries; Medical Directors; Director of Nursing, Pharmacy, Dietetic, Podiatric, and Optometric Service; other directors of professional services; Director for the National Center for Preventative Health; and Director of Physical Assistant Services], any such appointment or reappointment may be extended by the Secretary for a period not in excess of three years, and any person so appointed or reappointed or whose appointment or reappointment is extended shall be subject to removal by the Secretary for cause.

- Reference: 38 U.S.C. § 7306(d) (2017)
- The Secretary may designate a member of the Chaplain Service of the Department as Director, Chaplain Service, for a period of two years, subject to removal by the Secretary for cause.

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* There is in the Department an Under Secretary for Health, who is appointed by the President, by and with the advice and consent of the Senate. . .The Under Secretary for Health is the head of, and is directly responsible to the Secretary for the operation of, the Veterans Health Administration.

- Reference: 38 U.S.C. § 305 (2017)
- The Under Secretary for Health is the head of the Administration.
  - Reference: 38 U.S.C. § 7301(a) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The Secretary may authorize the establishment at any Department medical center of a nonprofit corporation to provide a flexible funding mechanism for the conduct of approved research and education at the medical center. Such corporation may be established to facilitate either research or education or both research and education. . .For the purposes of this section, the term education includes education and training and [includes employees and veterans of the Veterans Health Administration]. . .A corporation established under this subchapter may, solely to carry out the purposes of this subchapter accept, administer, retain and spend funds derived from gifts, contributions, grants, fees, reimbursements, and bequests from individuals and public and private entities. . .set fees for education and training facilitated under section 7362 of this title, and receive, retain, administer, and spend funds in furtherance of such education and training.

- Reference: 38 U.S.C. §§ 7361-7362; 7364 (2017)
- Reporting Requirements:* Not later than March 15 each year, the Director shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the activities of the Office [of Research Oversight] during the preceding calendar year.
- Reference: 38 U.S.C. § 7307(f) (2017)
- Not later than March 15 of each year, the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the activities of the Readjustment Counseling Service during the preceding fiscal year.
    - Reference: 38 U.S.C. § 7309(e) (2017)
  - Whenever the [Geriatrics and Gerontology Advisory] Committee submits a report to the Secretary [through the Under Secretary for Health] under paragraph (1), the Committee shall at the same time transmit a copy of the report in the same form to the appropriate committees of Congress. Not later than 90 days after receipt of a report under that paragraph, the Secretary shall submit to the appropriate committees of Congress a report containing any comments and recommendations of the Secretary with respect to the report of the committee.
    - Reference: 38 U.S.C. § 7315(c)(2) (2017)
  - Not later than June 1, 2010, and each year thereafter, the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the implementation of this section [Committee on Care of veterans with Traumatic Brain Injury advice and recommendations to the Under Secretary for Health and steps taken by the Veterans Health Administration to meet effectively the treatment and rehabilitation needs of veterans with traumatic brain injury].
    - Reference: 38 U.S.C. § 7321A(d) (2017)
  - Not later than January 31 each year, the Secretary, acting through the Under Secretary for Health, shall submit to Congress a report on the use during the preceding year of authorities for purposes of retaining experienced nurses in the Veterans Health Administration.
    - Reference: 38 U.S.C. § 7324 (2017)
  - Not later than March 1 of each of years 2018 through 2022, the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on, for the calendar year preceding the calendar year during which the report is submitted the furnishing of hospital care, medical services, and nursing home care under the laws administered by the Secretary and the administration of the furnishing of such care and services by the Veterans Health Administration.
    - Reference: 38 U.S.C. § 7330B (2017)
  - The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an annual report on the corporations established under this subchapter [corporations designed to provide flexible funding for research and education of Veterans Health Administration employees and veterans].
    - Reference: 38 U.S.C. § 7366(d) (2017)
  - Not later than 45 days before the Secretary appoints any personnel [in the Veterans Health Administration] for a class of health care occupations that is not specifically listed

in this paragraph, the Secretary shall submit to the Committee on Veterans' Affairs of the Senate, the Committee on Veterans' Affairs of the House of Representatives. . .notice of such appointment.

- Reference: 38 U.S.C. § 7401(3)(B) (2017)
- If the Secretary receives recommendations under paragraph (2) from exclusive employee representatives on any part of a proposed system of promotion and advancement under that paragraph [concerning occupational category of employees in the Veterans Health Administration], the Secretary shall determine whether or not to accept the recommendations, either in whole or in part. If the Secretary determines not to accept all or part of the recommendations, the Secretary shall notify the congressional veterans' affairs committees of the recommendations and of the portion of the recommendations that the Secretary has determined not to accept.
  - Reference: 38 U.S.C. § 7403(g)(4)(A) (2017)
- If the Secretary determines that activities under subparagraph (B), (C), or both are unsuccessful at reaching such agreement [on proposed system of promotion and advancement of occupational employees at the Veterans Health Administration] and determines (in the sole and unreviewable discretion of the Secretary) that further meeting or conferral under subparagraph (B), mediation of under paragraph (C), or both are unlikely to reach such agreement notify the congressional veterans' affairs committees of such determinations, identify for such committees the portions of the recommendations that the Secretary has determined not to accept, and provide such committees an explanation of justification for determining to implement the part of the system subject to such portions of the recommendations without regard to such portions of the recommendations.
  - Reference: 38 U.S.C. § 7403(g)(4)(D)(i) (2017)
- The Secretary shall promptly submit to the congressional veterans' affairs committees a report on any modification of a system [of promotion and advancement of occupational employees at the Veterans Health Administration].
  - Reference: 38 U.S.C. § 7403(g)(7)(D) (2017)
- Not later than 18 months after the Secretary prescribes the regulations required by subsection (a) [relating to the pay of physicians and dentists in the Veterans Health Administration], and annually thereafter for the next 5 years, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the pay of physicians and dentists in the Veterans Health Administration under this subchapter.
  - Reference: 38 U.S.C. § 7433(b) (2017)
- Not later than September 30 of each year, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on staffing for covered positions at Department health care facilities [of the Veterans Health Administration].
  - Reference: 38 U.S.C. § 7451(e)(5) (2017)
- At least once each year the Secretary, upon the recommendation of the Under Secretary for Health, shall determine the specific health-care facilities and clinical services, if any, as to which there are significant problems with respect to the recruitment and retention of registered nurses. Upon making any such determination, the Secretary shall promptly

notify the Committees on Veterans' Affairs of the Senate and the House of Representatives of the determination and the basis for the determination.

- Reference: 38 U.S.C. § 7458(e) (2017)

*Review Commissions:* None

*Advisory Commissions:* The Secretary shall establish an advisory committee to be known as the special medical advisory group. The advisory group shall advise the Secretary, through the Under Secretary for Health, and the Under Secretary for Health directly, relative to the care and treatment of disabled veterans and other matters pertinent to the Administration.

- Reference: 38 U.S.C. § 7312 (2017)
- In each case where the Secretary has a contract or agreement with any school, institution of higher learning, medical center, hospital, or other public or nonprofit agency, institution, or organization for the training or education of health personnel, the Secretary shall establish an advisory committee to advise the Secretary and Under Secretary for Health with respect to policy matters arising in connection with, and the operation of, the program, with respect to which it was appointed.
  - Reference: 38 U.S.C. § 7313 (2017)
- The Secretary shall establish in the Veterans Health Administration a Geriatrics and Gerontology Advisory Committee. . .The Committee shall advise the Under Secretary for Health on all matters pertaining to geriatrics and gerontology.
  - Reference: 38 U.S.C. § 7315 (2017)
- In order to provide advice to assist the Secretary and the Under Secretary for Health to carry out their responsibilities under this section, the official within the central office of the Veterans Health Administration responsible for the mental health and behavioral sciences matters shall establish a peer review panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary for the designation of centers under this section.
  - Reference: 38 U.S.C. § 7320(e)(1) (2017)
- The Secretary, acting through the Under Secretary for Health, shall establish in the Veterans Health Administration a Committee on Care of Severely Chronically Mentally Ill Veterans. . .The committee shall assess, and carry out a continuing assessment of, the capability of the Veterans Health Administration to meet effectively the treatment and rehabilitation needs of mentally ill veterans whose mental illness is severe and chronic and who are eligible for health care furnished by the Department, including the needs of such veterans who are women.
  - Reference: 38 U.S.C. § 7321 (2017)
- The Secretary shall establish in the Veterans Health Administration a committee to be known as the Committee on Care of Veterans with Traumatic Brain Injury. . .The committee shall assess, and carry out a continuing assessment of, the capability of the Veterans Health Administration to meet effectively the treatment and rehabilitation needs of veterans with traumatic brain injury.
  - Reference: 38 U.S.C. § 7321A (2017)
- The Under Secretary for Health shall establish a panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary for the establishment of centers under this section [Parkinson's Disease research, education, and clinical centers].
  - Reference: 38 U.S.C. § 7329(d) (2017)

- The Under Secretary for Health shall establish a panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary for the establishment of centers under this section.
  - Reference: 38 U.S.C. § 7330(d) (2017)
- The Under Secretary for Health shall establish a peer review panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary for the designation of epilepsy centers of excellence under this section.
  - Reference: 38 U.S.C. § 7330A(c) (2017)

*Action Require Outside Approval:* Regulations prescribed by the Under Secretary for Health are subject to the approval of the Secretary.

- Reference: 38 U.S.C. § 7304(b) (2017)
- The Secretary may not designate a health-care facility as a location for a center under subsection (a) [geriatric research, education, and clinical centers] unless a the peer review panel established under subsection (d) [by the Under Secretary for Health] has determined under that subsection that the proposal submitted by such facility as a location for a new center under subsection (a) is among those proposals which have met the highest competitive standards of scientific and clinical merit.
  - Reference: 38 U.S.C. § 7314(c) (2017)
- With the approval of the Secretary, any contract or research [by the Veterans Health Administration] by section 7303 of this title, the performance of which involves a risk of an unusually hazardous nature, may provide that the United States will indemnify the contractor as provided in paragraph (2), but only to the extent that the liability, loss, or damage concerned arises out of the direct performance of the contract and to the extent that the liability, loss, or damage concerned arises out of the direct performance of the contract and to the extent not covered by the financial protection required under subsection (e).
  - Reference: 38 U.S.C. § 7317(a)(1) (2017)

*Legislative Veto:* None

*Adjudication:* None

## **ELECTION ASSISTANCE COMMISSION**

*Date of Creation:* October 29, 2002<sup>358</sup>

*Statute:* 52 U.S.C. §§ 20921-21072 (2017)

*Authorizing Language:* There is hereby established as an independent entity the Election Assistant Commission.

- Reference: 52 U.S.C. § 20921 (2017)

*Commissioners/Board Members:* The Commission shall have four members appointed by the President, by and with the advice and consent of the Senate.

- Reference: 52 U.S.C. § 20923(a)(1) (2017)

*Quorum Rules:* None

*Agency Specific Personnel:* The Executive Director, General Counsel, and staff of the Commission may be appointed without regard to the provisions of Title 5 governing appointments in the competitive service, and may be paid without regard to the

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<sup>358</sup> Help American Vote Act of 2002, Pub. L. No. 107-252, 116 Stat. 1673 (2002).

provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay for level V of the Executive Schedule under section 5316 of that title.

- Reference: 52 U.S.C. § 20924(a)(6) (2017)

*Limitation on Appointment:* Each member of the Commission shall have experience with or expertise in election administration or the study of elections.

- Reference: 52 U.S.C. § 20923(a)(3) (2017)

*Party Balancing:* Before the initial appointment of the members of the Commission and before the appointment of any individual to fill a vacancy on the Commission, the Majority Leader of the Senate the Speaker of the House of Representatives, the Minority Leader of the Senate, and the Minority Leader of the House of Representatives shall each submit to the President a candidate recommendation with respect to each vacancy on the Commission affiliated with the political party of the Member of Congress involved.

- Reference: 52 U.S.C. § 20923(a)(2) (2017)
- As designated by the President at the time of nomination, of the members first appointed, two of the members (not more than one of whom may be affiliated with the same political party) shall be appointed for a term of 2 years and two of the members (not more than one of whom may be affiliated with the same political party) shall be appointed for a term of 4 years.

- Reference: 52 U.S.C. § 20923(b)(2) (2017)

*Fixed Terms:* Members shall serve for a term of 4 years and may be reappointed for not more than one additional term.

- Reference: 52 U.S.C. § 20923(b)(1) (2017)
- The Executive Director shall serve for a term of 4 years. An Executive Director may serve for a longer period only if reappointed for an additional term or terms by a vote of the Commission.
  - Reference: 52 U.S.C. § 20924(a)(2) (2017)
- The General Counsel shall serve for a term of 4 years, and may service for a longer period only if reappointed for an additional term or terms by a vote of the Commission.
  - Reference: 52 U.S.C. § 20924(a)(4) (2017)

*Staggered Terms:* As designated by the President at the time of nomination, of the members first appointed, two of the members (not more than one of whom may be affiliated with the same political party) shall be appointed for a term of 2 years and two of the members (not more than one of whom may be affiliated with the same political party) shall be appointed for a term of 4 years.

- Reference: 52 U.S.C. § 20923(b)(2) (2017)

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* A member of the Commission shall serve on the Commission after the expiration of the member's term until the successor of such member has taken office as a member of the Commission.

- Reference: 52 U.S.C. § 20923(b)(3)(B) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* The Commission shall select a chair and vice chair from among its members for a term of 1 year, except that the chair and vice chair may not be affiliated

with the same political party. A member of the Commission may serve as the chairperson and vice chairperson for only 1 term each during the term of office to which such member is appointed.

- Reference: 52 U.S.C. § 20923(c) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* Not later than January 31 of each year (beginning with 2004), the Commission shall submit a report to the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate detailing its activities during the fiscal year which ended on September 30 of the previous calendar year, and shall include in the report the following information: [a detailed description of activities, grants, programs, etc. carried out by the Commission].

- Reference: 52 U.S.C. § 20927 (2017)
- The Commission shall submit . . . to the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate a report on each study conducted under subsection (a) [periodic study of election administration issues] together with such recommendations for administrative and legislative action as the Commission determines is appropriate.
  - Reference: 52 U.S.C. § 20981(c) (2017)

*Review Commissions:* None

*Advisory Commissions:* The Commission shall consider the nominees recommended by the [Election Assistance Commission] Standards Board and the Board of Advisors in appointing the Executive Director.

- Reference: 52 U.S.C. § 20924(a)(3)(B) (2017)
- The [Election Assistance Commission] Standards Board and the Board of Advisors shall each, in accordance with the procedures described in subpart 3 of this part, review the voluntary voting system guidelines under such subpart, the voluntary guidance under subchapter III, and the best practices recommendations contained in the report submitted under section 20982(b) of this title.<sup>359</sup>
  - Reference: 52 U.S.C. § 20942 (2017)
- There is hereby established the Technical Guidelines Development Committee. The Development Committee shall assist the Executive Director of the Commission in the development of the voluntary voting system guidelines.
  - Reference: 52 U.S.C. § 20961 (2017)
- The Commission shall carry out its duties under this part [studies and other activities to promote effective administration of federal elections] in consultation with the Standards Board and the Board of Advisors.
  - Reference: 52 U.S.C. § 20987 (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **ENVIRONMENTAL PROTECTION AGENCY**

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<sup>359</sup> These boards simply review and provide guidance; the boards do not have approval/disapproval power.

*Date of Creation:* December 2, 1970<sup>360</sup>

*Statute:* Reorganization Plan No. 3 of 1970

*Authorizing Language:* There is hereby established the Environmental Protection Agency.

- Reference: Reorg. Plan No. 3 §1(a) (1970)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* The Deputy Administrator shall perform such functions as the Administrator shall from time to time assign or delegate, and shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of the Administrator.

- Reference: Reorg. Plan No. 3 §1(c) (1970)

*Who is Head of Agency:* There shall be at the head of the Agency the Administrator of the Environmental Protection Agency. . . The Administrator shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: Reorg. Plan No. 3 §1(b) (1970)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:*<sup>361</sup> None

## **EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**

*Date of Creation:* July 2, 1964<sup>362</sup>

*Statute:* 42 U.S.C. §§ 2000e-2000e-17 (2017)

*Authorizing Language:* There is hereby created a Commission to be known as the Equal Employment Opportunity Commission.

- Reference: 42 U.S.C. § 2000e-4(a) (2017)

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<sup>360</sup> Reorganization Plan No. 3 of 1970, 35 Fed. Reg. 15623, reprinted in 97 Stat. 485 (1970).

<sup>361</sup> Employs administrative law judges. Association of Administrative Law Judges. “Agencies Employing Administrative Law Judges,” <http://www.aalj.org/agencies-employing-administrative-law-judges> (accessed October 30, 2017).

<sup>362</sup> Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 241 (1964).

*Commissioners/Board Members:* [The Commission] shall be composed of five members. .  
.Members of the Commission shall be appointed by the President by and with the advice and consent of the Senate.

- Reference: 42 U.S.C. § 2000e-4(a) (2017)

*Quorum Rules:* A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and three members thereof shall constitute a quorum.

- Reference: 42 U.S.C. § 2000e-4(c) (2017)

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* Not more than three of [the Members] shall be members of the same political party.

- Reference: 42 U.S.C. § 2000e-4(a) (2017)

*Fixed Terms:* Members of the Commission shall be appointed. . .for a term of five years.

- Reference: 42 U.S.C. § 2000e-4(a) (2017)
- There shall be a General Counsel of the Commission appointed. . .for a term of four years.
- Reference: 42 U.S.C. § 2000e-4(b)(1) (2017)

*Staggered Terms:* None

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* All members of the Commission shall continue to serve until their successors are appointed and qualified, except that no such member of the Commission shall continue to serve (1) for more than sixty days when the Congress is in session unless a nomination to fill such vacancy shall have been submitted to the Senate, or (2) after the adjournment sine die of the session of the Senate in which such nomination was submitted.

- Reference: 42 U.S.C. § 2000e-4(a) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* The President shall designate one member to serve as Chairman of the Commission. . .The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission.

- Reference: 42 U.S.C. § 2000e-4(a) (2017)

*OMB Review:* None

*Independent Litigating:* Attorneys appointed under this section may, at the direction of the Commission, appear for and represent the Commission in any case in court that the Attorney General shall conduct all litigation to which the Commission is a party in the Supreme Court pursuant to this subchapter.

- Reference: 42 U.S.C. § 2000e-4(b)(2) (2017)

*Independent Sources of Funding:* There is hereby established in the Treasury of the United States a revolving fund to be known as the EEOC Education, Technical Assistance, and Training Revolving Fund and to pay the cost (including administrative and personnel expenses) of providing education, technical assistance, and training relating to laws administered by the Commission. Monies in the Fund shall be available without fiscal year limitation to the Commission for such purposes.

- Reference: 42 U.S.C. § 2000e-4(k)(1) (2017)

- The Commission shall charge fees in accordance with the provisions of this paragraph to offset the costs of education, technical assistance, and training provided with monies in the Fund. . Fees received under subparagraph (A) shall be deposited in the Fund by the Commission.

- Reference: 42 U.S.C. § 2000e-4(k)(2) (2017)

*Reporting Requirements:* The Commission shall at the close of each fiscal year report to the Congress and to the President concerning the action it has taken and the moneys it has disbursed.

- Reference: 42 U.S.C. § 2000e-4(e) (2017)
- On or before October 1 of each year, the Equal Employment Opportunity Commission shall transmit to the President and to the Congress a report of its activities, together with such recommendations for legislative or administrative changes as it concludes are desirable to further promote the purposes of this section.
- Reference: 42 U.S.C. § 2000e-14 (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:*<sup>363</sup> Any individual referred to in subsection (a) of this section [member of elected official’s staff] may file a complaint alleging a violation, not later than 180 days after the occurrence of the alleged violation, with the Equal Employment Opportunity Commission, which, in accordance with the principles and procedures set forth in sections 554 through 557 of Title 5, shall determine whether a violation has occurred and shall set forth its determination in a final order.

- Reference: 42 U.S.C. § 2000e-16c(b)(1) (2017)

## **EXECUTIVE OFFICE OF THE PRESIDENT**

### **Council of Economic Advisors**

*Date of Creation:* February 20, 1946<sup>364</sup>

*Statute:* 15 U.S.C. § 1023 (2017)

*Authorizing Language:* There is created in the Executive Office of the President a Council of Economic Advisors.

- Reference: 15 U.S.C. § 1023(a)(1) (2017)

*Commissioners/Board Members:* The Council shall be composed of three members, of whom 1 shall be the Chairman who shall be appointed by the President by and with the advice and consent of the Senate and 2 shall be appointed by the President.

- Reference: 15 U.S.C. § 1023(a)(2) (2017)

*Quorum Rules:* None

*Agency Specific Personnel:* The Council is authorized to employ, and fix the compensation of, such specialists and other experts as may be necessary for the carrying out of its functions under this chapter, without regard to the civil-service laws, and is authorized, subject to

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<sup>363</sup> Employs administrative law judges. Association of Administrative Law Judges. “Agencies Employing Administrative Law Judges,” <http://www.aalj.org/agencies-employing-administrative-law-judges> (accessed October 30, 2017).

<sup>364</sup> Employment Act of 1946, Pub. L. No. 79-304, 60 Stat. 23 (1946).

the civil-service laws, to employ such other officers and employees as may be necessary for carrying out its functions under this chapter.

- Reference: 15 U.S.C. § 1023(b) (2017)

*Limitation on Appointment:* Each member shall be a person who, as a result of training, experience, and attainments, is exceptionally qualified to analyze and interpret economic developments, to appraise programs and activities of the Government in the light of the [national employment and productivity] policy declared in section 1021 of this title, and to formulate and recommend national economic policy to promote full employment, production, and purchasing power under free competitive enterprise.

- Reference: 15 U.S.C. § 1023(a)(3) (2017)

*Party Balancing:* None

*Fixed Terms:* None

*Staggered Terms:* None

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* The President shall designate 1 of the members of the Council as vice chairman, who shall act as chairman in the absence of the chairman.

- Reference: 15 U.S.C. § 1023(a)(4) (2017)

*Who is Head of Agency:* The Chairman. . . shall be appointed by the President by and with the advice and consent of the Senate.

- Reference: 15 U.S.C. § 1023(a)(2)(A) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* In exercising its power, functions, and duties under this chapter, the Council may constitute such advisory committees and may consult with such representatives of industry, labor, consumers, State and local governments, and other groups, as it deems advisable.

- Reference: 15 U.S.C. § 1023(e) (1) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Council on Environmental Quality**

*Date of Creation:* January 1, 1970<sup>365</sup>

*Statute:* 42 U.S.C. §§ 4342-4347 (2017)

*Authorizing Language:* There is created in the Executive Office of the President a Council on Environmental Quality.

- Reference: 42 U.S.C. § 4342 (2017)

*Commissioners/Board Members:* The Council shall be composed of three members who shall be appointed by the President. . . by and with the advice and consent of the Senate.

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<sup>365</sup> National Environmental Policy Act, Pub. L. No. 91-190, 83 Stat. 852 (1970)

- Reference: 42 U.S.C. § 4342 (2017)

*Quorum Rules:* None

*Agency Specific Personnel:* None

*Limitation on Appointment:* Each member shall be a person who, as a result of his training, experience, and attainments, is exceptionally well qualified to analyze and interpret environmental trends and information of all kinds; to appraise programs and activities of the Federal Government in the light of the policy set forth in subchapter I of this chapter [relating to national environmental policy]; to be conscious of and responsive to the scientific, economic, social, esthetic, and cultural needs and interests of the National; and to formulate and recommend national policies to promote the improvement of the quality of the environment.

- Reference: 42 U.S.C. § 4342 (2017)

*Party Balancing:* None

*Fixed Terms:* None

*Staggered Terms:* None

*For Cause:* None

*Serve President:* The . . . three members who shall be appointed by the President to serve at his pleasure.

- Reference: 42 U.S.C. § 4342 (2017)

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The President shall designate one of the members of the Council to serve as chairman

- Reference: 42 U.S.C. § 4342 (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* In exercising its powers, functions, and duties under this chapter, the Council shall consult with the Citizens Advisory Committee on Environmental Quality established by Executive Order numbered 11472.

- Reference: 42 U.S.C. § 4345 (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Office of Management and Budget**

*Date of Creation:* July 1, 1970<sup>366</sup>

*Statute:* 31 U.S.C. §§ 501-522 (2017)

*Authorizing Language:* The Office of Management and Budget is an office in the Executive Office of the President.

- Reference: 31 U.S.C. § 501 (2017)

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<sup>366</sup> Reorganization Plan No. 2 of 1970. The Office of Management and Budget succeeded the Bureau of the Budget, which was established in 1921. Budget and Accounting Act of 1921, Pub. L. No. 67-13, 42 Stat. 20 (1921).

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* The Director of the Office of Management and Budget shall appoint and fix the pay of employees of the Office under regulations prescribed by the President.

- Reference: 31 U.S.C. § 521 (2017)

*Limitation on Appointment:* The Controller shall be appointed from among individuals who possess demonstrated ability and practical experience in accounting, financial management, and financial systems and extensive practical experience in financial management in large governmental or business entities.

- Reference: 31 U.S.C. § 504(b) (2017)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* The Deputy Director. . .acts as the Director when the Director is absent or unable to serve or when the office of Director is vacant.

- Reference: 31 U.S.C. § 502(b)(2) (2017)

*Who is Head of Agency:* The head of the Office of Management and Budget is the Director of the Office of Management and Budget. The Director is appointed by the President, by and with the advice and consent of the Senate.

- Reference: 31 U.S.C. § 502(a) (2017)

*OMB Review:* N/A

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Office of National Drug Control Policy**

*Date of Creation:* November 18, 1988<sup>367</sup>

*Statute:* 21 U.S.C. §§ 1701-1714 (2017)

*Authorizing Language:* There is established in the Executive Office of the President an Office of National Drug Control Policy.

- Reference: 21 U.S.C. § 1702(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* The Deputy Director for Supply Reduction shall have substantial experience and expertise in drug interdiction and other supply reduction activities and be

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<sup>367</sup> Anti-Drug Abuse Act of 1988, Pub. L. No. 100-690, 102 Stat. 4181 (1988).

responsible for the activities in subparagraphs (A) through (C) in section 1701(11) of this title.

- Reference: 21 U.S.C. § 1702(b)(3)(D) (2017)
- In appointing the Deputy Director for Demand Reduction under this paragraph, the President shall take into consideration the scientific, educational, or professional background of the individual, and whether the individual has experience in the fields of substance abuse prevention, education, or treatment.
  - Reference: 21 U.S.C. § 1703(a)(1)(C) (2017)
- Any officer or employee of the Office who is appointed to that position by the President, by and with the advice and consent of the Senate, may not participate in Federal election campaign activities, except that such official is not prohibited by this paragraph from making contributions to individual candidates.
  - Reference: 21 U.S.C. § 1703(a)(5) (2017)
- There shall be at the head of the [Counter-Drug Technology Assessment] Center the Chief Scientist, who shall be appointed by the Director, from among individuals qualified and distinguished in the area of science, medicine, engineering, or technology.
  - Reference: 21 U.S.C. § 1707(b)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* The Director. . .shall serve at the pleasure of the President.

- Reference: 21 U.S.C. § 1703(a)(1)(A) (2017)

*Continuation until Replacement:* None

*Acting Service Rules:* The Deputy Director of National Drug Control Policy shall. . .serve as the Director in absence of the Director or during any period in which the office of the Director is vacant. If the Director dies, resigns, or is otherwise unable to perform the functions and duties of the office, the Deputy Director shall perform the functions and duties of the Director in an acting capacity pursuant to subchapter III of chapter 33 of Title 5.

- Reference: 21 U.S.C. § 1703(a)(2)(B)-(3) (2017)

*Who is Head of Agency:* There shall be a Director of National Drug Control Policy who shall head the Office and shall hold the same rank and status as the head of an executive department listed in section 101 of Title 5.

- Reference: 21 U.S.C. § 1702(b)(1) (2017)
- The Director shall be appointed by the President, by and with the advice and consent of the Senate.
  - Reference: 21 U.S.C. § 1703(a)(1)(A) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* There is established in the Treasury of the United States a fund for the receipt of gifts, both real and personal, for the purpose of aiding or facilitating the work of the Office under section 1703(c) of this title [National Drug Control Program]. The Office may accept, hold, and administer contributions to the Fund. Amounts deposited in the Fund are authorized to be appropriated, to remain available until expended for authorized purposes at the discretion of the Director.

- Reference: 21 U.S.C. § 1702(d) (2017)
- In carrying out subsection (b) of this section [National Drug Control Program], the Director may. . .accept and use gifts and donations of property from Federal, State, and local government agencies, and from the private sector, as authorized in section 1702(d) of this title.

- Reference: 21 U.S.C. § 1703(d)(5) (2017)

*Reporting Requirements:* The Director. . .shall submit to the appropriate congressional committees on an annual basis, not later than 60 days after the date of the last day of the applicable period a summary of each of the evaluations received by the Director under paragraph (13) [evaluation of progress by each National Drug Control Program agency] and the progress of each National Drug Control Program agency toward the drug control program goals of the agency using the performance measures for the agency developed under section 1705(c) of this title.

- Reference: 21 U.S.C. § 1703(b)(14) (2017)

- The Director. . .shall submit an annual report to Congress detailing how the Office of National Drug Control Policy has consulted with and assisted State, local, and tribal governments with respect to the formulation and implementation of the National Drug Control Strategy and other relevant issues.

- Reference: 21 U.S.C. § 1703(b)(19) (2017)

- The Director shall require the National Drug Control Program agencies to submit to the Director not later than February of each year a detailed accounting of all funds expended by the agencies for National Drug Control Program activities during the previous fiscal year, and require such accounting be authenticated by the Inspector General for each agency prior to submission to the Director and submit to Congress not later than April 1 of each year the information submitted to the Director under subparagraph (A).

- Reference: 21 U.S.C. § 1704(d) (2017)

- Not later than February 1 of each year, the Director shall submit to Congress as part of the National Drug Control Strategy, a description of a national drug control performance measurement system.

- Reference: 21 U.S.C. § 1705(c) (2017)

- The Director shall submit to Congress, including the Committees on Appropriations of the Senate and the House of Representatives, the authorizing committees for the Office, and any other applicable committees of jurisdiction, a reprogramming or transfer request in advance of any transfer under this paragraph [transfer funds made available to a National Drug Control Program agency] in accordance with the regulations of the affected agency or agencies.

- Reference: 21 U.S.C. § 1703(d)(8)(E)(i) (2017)

- The Director shall. . .annually submit to Congress a report describing the effect of all transfers of funds made pursuant to this paragraph or subsection (c)(4) of this section [transfer funds made available to a National Drug Control Program agency] during the 12-month period preceding the date on which the report is submitted.

- Reference: 21 U.S.C. § 1703(d)(8)(E)(ii) (2017)

- In carrying out subsection (b) of this section [National Drug Control Program], the Director may. . .issue to the head of a National Drug Control Program agency a fund control notice described in subsection (f) to ensure compliance with the National Drug

Control Program Strategy and notify the appropriate congressional committees of any fund control notice issued in accordance with subsection (f)(5).

- Reference: 21 U.S.C. § 1703(d)(9) (2017)
- A copy of each fund control notice [that all or part of an amount appropriated to the National Drug Control Program agency account by obligated] shall be transmitted to the appropriate congressional committees.
  - Reference: 21 U.S.C. § 1703(f)(4) (2017)
- As part of the documentation that supports the President's annual budget request for the Office, the Director shall submit to Congress a budget justification that includes [information on the HIDTA Program budget submissions].
  - Reference: 21 U.S.C. § 1705(i) (2017)
- As part of the documentation that supports the President's annual budget request for the Office, the Director shall submit to Congress a report describing the use of HIDTA funds to investigate and prosecute organizations and individuals trafficking in methamphetamine in the prior calendar year.
  - Reference: 21 U.S.C. § 1705(o) (2017)
- On or before July 1 of each year, the Director shall submit a report to the appropriate congressional committees that addresses [the requests under the Technology Transfer Program].
  - Reference: 21 U.S.C. § 1707(f)(5) (2017)
- If the Director determines that another entity is more appropriate under clause (ii)(IV) [for advertisements for the Partnership for a Drug-Free America], the Director shall notify Congress, through the committees of jurisdiction in the House and Senate, in writing, not less than 30 days prior to contracting with a party other than the Partnership for a Drug-Free America.
  - Reference: 21 U.S.C. § 1708(d)(2)(B)(ii)
- The Director shall submit on an annual basis a report to Congress that describes [the national media campaign for the Partnership for a Drug-Free America].
  - Reference: 21 U.S.C. § 1708(h) (2017)
- With respect to fiscal year 2008 and any fiscal year thereafter, if the Director certifies in writing to Congress that domestic methamphetamine laboratory seizures (as reported to the El Paso Intelligence Center of the Drug Enforcement Administration) decreased to at least 75 percent of the 2006 level or the Director has documented a highly, statistically significant increase in a specific drug, from a baseline determined by locally collected data, that can be defined as a local drug crisis, the Director may apply paragraph (1)(A) for that fiscal year with respect to advertisements specifically intended to reduce the use of such other drugs.
  - Reference: 21 U.S.C. § 1708(k)(2) (2017)
- On or before February 1, 2013, and every 3 years thereafter, the Director shall submit a report to Congress that describes [the national media campaign for the Partnership for a Drug-Free America].
  - Reference: 21 U.S.C. § 1708a(a) (2017)
- On or before March 1 of each year, the United States Interdiction Coordinator shall provide a report on behalf of the Director to the appropriate congressional committees, to the Committee on Armed Services and the Committee on Homeland Security of the

House of Representatives and to the Committee on Homeland Security and Governmental Affairs and the Committee on Armed Services of the Senate, which shall include a copy of that year's National Interdiction Command and Control Plan [and information for the previous 10 years regarding the program].

- Reference: 21 U.S.C. § 1710(a)(4)(D) (2017)
- Not later than September 30 of each year, the chairman of the Interdiction Committee shall submit a report to the Director and to the appropriate congressional committees describing the results of the meetings and any significant findings of the Committee during the previous 12 months.
  - Reference: 21 U.S.C. § 1710(b)(4) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* Subject to the availability of appropriations, no more than \$1,500,000 may be expended under this section each fiscal year on creative services, except that the Director may expend up to \$2,000,000 in a fiscal year on creative services to meet urgent needs of the national media campaign with advance approval from the Committee on Appropriations of the Senate and of the House of Representatives upon a showing of the circumstances causing such urgent needs of the national media campaign.

- Reference: 21 U.S.C. § 1708(b)(2)(A)(ii) (2017)

*Legislative Veto:* None

*Adjudication:* None

### **Office of Science and Technology Policy**

*Date of Creation:* May 11, 1976<sup>368</sup>

*Statute:* 42 U.S.C. §§ 6611-6626 (2017)

*Authorizing Language:* There is established in the Executive Office of the President an Office of Science and Technology Policy.

- Reference: 42 U.S.C. § 6611 (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* There shall be at the head of the Office a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 42 U.S.C. § 6612(a) (2017)

*OMB Review:* None

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<sup>368</sup> Presidential Science and Technology Advisory Organization Act of 1976, Pub. L. No. 94-282, 90 Stat. 459 (1976).

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* In carrying out the provisions of this section, the Director shall . . . report at least one each year to . . . the Congress on the overall activities and accomplishments of the office, pursuant to section 6615 of this title.

- Reference: 42 U.S.C. § 6615(a)(11) (2017)
- The Director shall render to the President for submission to the Congress no later than January 15 of each odd numbered year, a science and technology report and outlook which shall prepared under the guidance of the Office and with the cooperation of the Director of the National Science Foundation, with appropriate assistance from other Federal departments and agencies as the Office or the Director of the National Science Foundation deems necessary.
  - Reference: 42 U.S.C. § 6615 (2017)
- The Director shall identify and provide an annual report to Congress on each major multinational science and technology project, in which the United States is not a participant, which has a total estimated cost greater than \$1,000,000,000.
  - Reference: 42 U.S.C. § 6618 (2017)
- The Director shall submit to Congress each year, together with documents submitted to Congress in support of the budget of the President for the fiscal year beginning in such year (as submitted pursuant to section 1105 of Title 31), a report, current as of the fiscal year ending in the year before such report is submitted, setting forth the following: a description of the deficiencies in research infrastructure identified in accordance with subsection (a); a list of projects and budget proposals of Federal research facilities, set forth by agency, for major instrumentation acquisitions that are included in the budget proposal of the President; an explanation of how the projects and instrumentation acquisitions described in paragraph (2) relate to the deficiencies and priorities identified pursuant to subsection (a).
  - Reference: 42 U.S.C. § 6619(c) (2017)
- The Director shall transmit a report annually to Congress at the time of the President's budget request describing the plan required under subsection (b)(5) [5-year STEM education strategic plan].
  - Reference: 42 U.S.C. § 6621(d) (2017)
- The Director of the Office of Science and Technology Policy shall submit to the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations of the Senate and the Committee on Science, Space, and Technology and the Committee on Foreign Affairs of the House of Representatives a biennial report on the requirements of this section.
  - Reference: 42 U.S.C. § 6625(e) (2017)
- The Director of the Office of Science and Technology Policy shall submit, not later than 60 days after January 6, 2016, and annually thereafter, to the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations of the Senate and the Committee on Science, Space, and Technology and the Committee on Foreign Affairs of the House of Representatives a report that lists and describes the details of all foreign travel by Office of Science and Technology Policy staff and detailees.
  - Reference: 42 U.S.C. § 6625(h) (2017)

*Review Commissions:* None

*Advisory Commissions:* The Director shall establish an Intergovernmental Science, Engineering, and Technology Advisory Panel, whose purpose shall be to (A) identify and define civilian problems at State, regional, and local levels which science, engineering, and technology may assist in resolving or ameliorating; (B) recommend priorities for addressing such problems; and (C) advise and assist the Director in identifying and fostering policies to facilitate the transfer and utilization of research and development results so as to maximize their application to civilian needs.

- Reference: 42 U.S.C. § 6614(b) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Office of the United States Trade Representative**

*Date of Creation:* October 11, 1962<sup>369</sup>

*Statute:* 19 U.S.C. § 2171 (2017)

*Authorizing Language:* There is established within the Executive Office of the President the Office of the United States Trade Representative.

- Reference: 19 U.S.C. § 2171(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* Not more than 20 individuals may be employed without regard to any provision of law regulating the employment or compensation at rates not to exceed the rate of pay for level IV of the executive Schedule in section 5314 of Title 5.

- Reference: 19 U.S.C. § 2171(e)(1) (2017)

*Limitation on Appointment:* A person who has directly represented, aided, or advised a foreign entity (as defined by section 207(f)(3) of Title 18) in any trade negotiation, or trade dispute, with the United States may not be appointed as United States Trade Representative or as a Deputy United States Trade Representative.

- Reference: 19 U.S.C. § 2171(b)(4) (2017)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* The United States Trade Representative shall hold office at the pleasure of the President.

- Reference: 19 U.S.C. § 2171(b)(1) (2017)

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The Office shall be headed by the United States Trade Representative who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 19 U.S.C. § 2171(b)(1) (2017)

*OMB Review:* None

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<sup>369</sup> Established as the Special Representative for Trade Negotiations. Trade Expansion Act of 1962, Pub. L. No. 87-794, 76 Stat. 872 (1962).

*Independent Litigating:* None

*Independent Sources of Funding:* The United States Trade Representative may, for the purpose of carrying out his functions under this section. . .accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Office.

- Reference: 19 U.S.C. § 2171(e)(9) (2017)

*Reporting Requirements:* The United States Trade Representative shall. . .be responsible for making reports to Congress with respect to matters referred to in subparagraphs (C) and (F) [international trade negotiations and the administration of trade agreements].

- Reference: 19 U.S.C. § 2171(c)(1)(H) (2017)
- By not later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the United States Trade Representative shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the Office to carry out its functions.
  - Reference: 19 U.S.C. § 2171(g)(3) (2017)

*Review Commissions:* None

*Advisory Commissions:* For purposes of carrying out paragraph (1) [unfair trade practices] the United States Trade Representative shall be assisted by an interagency unfair trade practices advisory committee.

- Reference: 19 U.S.C. § 2171(d) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **EXPORT-IMPORT BANK OF THE UNITED STATES**

*Date of Creation:* February 2, 1934<sup>370</sup>

*Statute:* 12 U.S.C. §§ 635-635t (2017)

*Authorizing Language:* There is created a corporation with the name Export-Import Bank of the United States, which shall be an agency of the United States of America.

- Reference: 12 U.S.C. § 635(a)(1) (2017)
- The Export-Import Bank of the United States shall constitute an independent agency of the United States.
  - Reference: 12 U.S.C. § 635a(a) (2017)

*Commissioners/Board Members:* There shall be a Board of Directors of the Bank consisting of the President of the Export-Import Bank of the United States. . .the First Vice President. . .and three additional persons appointed by the President of the United States by and with the advice and consent of the Senate.

- Reference: 12 U.S.C. § 635a(b) (2017)
- There shall be a President of the Export-Import Bank of the United States, who shall be appointed by the President of the United States by and with the advice and consent of the Senate. . .There shall be a First Vice President of the Bank, who shall be appointed by the President of the United States by and with the advice and consent of the Senate.

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<sup>370</sup> Executive Order No. 6,581 (1934).

- Reference: 12 U.S.C. § 635a(b) (2017)

*Quorum Rules:* A quorum of the Board of Directors shall consist of at least three members.

- Reference: 12 U.S.C. § 635a(c)(6) (2017)

*Agency Specific Personnel:* None

*Limitation on Appointment:* Of the five members of the Board appointed by the President, not less than one such member shall be selected from among the small business community and shall represent the interests of small business.

- Reference: 12 U.S.C. § 635a(c)(8)(B) (2017)
- No director, officer, attorney, agent, or employee of the Bank shall in any manner, directly or indirectly, participate in the deliberation upon on the determination of any question affecting such individual's personal interests, or the interests of any corporation, partnership or association in which such individual is directly or indirectly personally interested.
  - Reference: 12 U.S.C. § 635a(e) (2017)
- The President of the Bank shall appoint an officer, who shall rank not lower than senior vice president and whose sole executive function shall be to manage the [Small Business] Division. The officer shall have substantial recent experience in financing exports by small business concerns.
  - Reference: 12 U.S.C. § 635a(f)(2) (2017)

*Party Balancing:* Of the five members of the Board, not more than three shall be members of any one political party.

- Reference: 12 U.S.C. § 635a(c)(2) (2017)

*Fixed Terms:* The terms of the directors, including the President and the First Vice President of the Bank, appointed under this section shall be four years.

- Reference:

*Staggered Terms:* Of the directors first appointed to serve beginning on or after January 21, 1985, two directors (other than the President and First Vice President of the Bank) shall be appointed for terms of two years, as designated by the President of the United States at the time of their appointment and any director first appointed to serve for a term beginning on any date after January 21, 1985, shall serve only for the remainder of the period for which such director would have been appointed if such director's term had begun on January 21, 1985. If such term would have expired before the date on which such director's term actually begins, the term of such director shall be the four-year period, or remainder thereof, as if such director had been preceded by a director whose term had begun on January 21, 1985.

- Reference: 12 U.S.C. § 635a(c)(8)(A) (2017)

*For Cause:* None

*Serve President:* During their terms of office, the directors shall serve at the pleasure of the President of the United States.

- Reference: 12 U.S.C. § 635a(c)(8)(A)(i) (2017)

*Continuation until Replacement:* Any director whose term has expired may continue to serve on the Board of Directors until the earlier of the date on which such director's successor is qualified or the end of the 6-month period beginning on the date such director's term expires.

- Reference: 12 U.S.C. § 635a(c)(8)(E) (2017)

*Acting Service Rules:* There shall be a First Vice President of the Bank. . .who shall serve as President of the Bank during the absence or disability of or in the event of a vacancy in the office of President of the Bank.

- Reference: 12 U.S.C. § 635a(b) (2017)

*Who is Head of Agency:* There shall be a President of the Export-Import Bank of the United States, who shall be appointed by the President of the United States by and with the advice and consent of the Senate, and who shall serve as chief executive officer of the Bank. . .The President of the Export-Important Bank of the United States. . .shall serve as Chairman [of the Board of Directors].

- Reference: 12 U.S.C. § 635a(b)-(c) (2017)

*OMB Review:* None

*Independent Litigating:* In connection with and in furtherance of its objects and purposes, the bank is authorized and empowered to. . .sue and to be sued, to complain and to defend in any court of competent jurisdiction; to represent itself or to contract for representation in all legal and arbitral proceedings outside the United States.

- Reference: 12 U.S.C. § 635(a)(1) (2017)

*Independent Sources of Funding:* In connection with and in furtherance of its objects and purposes, the bank is authorized and empowered to do a general banking business except that of circulation; to receive deposits; to purchase, discount, rediscount, sell, and negotiate, with or without its endorsement or guaranty, and to guarantee notes, drafts, checks, bills of exchange, acceptances, including bankers' acceptances, cable transfers, and other evidences of indebtedness; to guarantee, insure, coinsure, and reinsure against political and credit risks of loss; to purchase, sell, and guarantee securities but not to purchase with its funds any stock in any other corporation except that it may acquire any such stock through the enforcement of any lien or pledge or otherwise to satisfy a previously contracted indebtedness to it; to accept bills and drafts drawn upon it; to issue letters of credit; to purchase and sell coin; bullion, and exchange; to borrow and lend money.

- Reference: 12 U.S.C. § 625(a)(1) (2017)
- The Bank may impose and collect reasonable fees to cover the costs of conferences and seminars sponsored by, and publications provided by, the Bank, and may accept reimbursement for travel and subsistence expenses incurred by a director, officer, or employee of the Bank. . .Amounts received under the preceding sentence shall be credited to the fund which initially paid for such activities and shall be offset against the expenses of the Bank for such activities.
  - Reference: 12 U.S.C. § 625(a)(1) (2017)
- The bank is authorized to use all of its assets and all moneys which have been or may hereafter be allocated to or borrowed by it in the exercise of its functions.
  - Reference: 12 U.S.C. § 625(a)(1) (2017)

*Reporting Requirements:* Except as provided by the fourth sentence of this paragraph [relating to adjournment], no loan or financial guarantee or general guarantee or insurance facility or combination thereof (i) in an amount which equals or exceeds \$100,000,000 or (ii) for the export of technology, fuel, equipment, materials, or goods or services to be used in the construction, alteration, operation, or maintenance of nuclear power, enrichment, reprocessing, research, or heavy water production facilities, shall be finally approved by the Board of Directors of the Bank, unless in each case the Bank has submitted to the

Congress with respect to such loan, financial guarantee, or combination thereof, a detailed statement describing and explaining the transaction, at least 25 days of continuous session of the Congress prior to the date of final approval.

- Reference: 12 U.S.C. § 635(b)(3) (2017)
- Once in each calendar quarter, the Bank shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives on all instances in which the Bank, during the reporting quarter, guaranteed, insured, or extended credit or participated in an extension of credit in connection with any credit sale of an article, service, or related technical data described in subparagraph (G) that the Bank determined would not be put to a military use or described in subparagraph (I)(i).
  - Reference: 12 U.S.C. § 635(b)(6)(H) (2017)
- Subparagraph (A) [prohibition against guaranteeing, insuring, or extending credit in connection with any sale of defense articles and services] shall not apply to a transaction involving defense articles or services if the Bank determines that the defense articles or services are nonlethal and the primary end use of the defense articles or services will be for civilian purposes and at least 15 calendar days before the date on which the Board of Directors of the Bank gives final approval to Bank participation in the transaction, the Bank provides notice of the transaction to the Committees on Financial Services and on Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and on Appropriations of the Senate.
  - Reference: 12 U.S.C. § 635(b)(6)(I) (2017)
- Not later than 120 days after December 20, 2006, the Bank shall submit a list to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, which designates sensitive commercial sectors and products with respect to which the provision of financing support by the Bank is deemed unlikely by the President of the Bank due to the significant potential for a determination that such financing support would result in an adverse economic impact on the United States. The President of the Bank shall review on an annual basis thereafter the list of sensitive commercial sectors and products and the Bank shall submit an updated list to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Service of the House of Representatives of such sectors and products.
  - Reference: 12 U.S.C. § 635(e)(5) (2017)
- The Bank shall . . . notify the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives of the application [for consideration of a long-term transaction the value of which exceeds \$100,000,000].
  - Reference: 12 U.S.C. § 635(c)(10)(c)(i)(III) (2017)
- Not later than 1 year after December 4, 2015, and not less frequently than every 3 years thereafter, the Inspector General [of the Export-Import Bank] shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a written report containing all findings and determinations in carrying out subsection (a).
  - Reference: 12 U.S.C. § 635a-7(b) (2017)

- The Export-Import Bank of the United States shall transmit to the Congress annually a complete and detailed report of its operations. Such report shall be as of the close of business on the last day of each fiscal year.
  - Reference: 12 U.S.C. § 635g(a) (2017)
- Not later than March 31 of each year, the Bank shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate reports on [9 different topics relating the Bank financing and fee structures].
  - Reference: 12 U.S.C. § 635g(f) (2017)
- The Bank shall, not less frequently than quarterly calculate the rate of default with respect to whether the products involved are short-term loans, medium term loans, long-term loans, insurance, medium-term guarantees, or long-term guarantees; with respect to each key market involved; and with respect to each industry sector involved and submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on each such rate and any information the Bank deems relevant.
  - Reference: 12 U.S.C. § 635g(g)(2) (2017)
- Within 45 days after a rate calculated under paragraph (1) [monitoring of default rates] equals or exceeds 2 percent, the Bank shall submit to the Congress a written report that explains the circumstances that have caused the default rate to be at least 2 percent, and includes a plan to reduce the default rate to less than 2 percent.
  - Reference: 12 U.S.C. § 635g(g)(3) (2017)
- For so long as the default rate calculated under paragraph (1) is at least 2 percent, the Bank shall submit monthly reports to the Congress describing the specific actions taken during such period to reduce the default rate.
  - Reference: 12 U.S.C. § 635g(g)(5) (2017)
- Not later than June 30 of each year, the Bank shall submit to the appropriate congressional committees a report that includes the following: [actions of Bank in providing financing on a competitive basis, and to minimize competition in government-supported export financing; role of Bank in implementing strategic plan prepared by the Trade Promotion Coordinating Committee; tied aid credit program and fund; purpose of all Bank transactions; efforts of Bank to promote export of good and services related to renewable energy sources; size of Bank program account; cofinancing programs of the Bank and other export credit agencies; services supported by the Bank and by other export credit agencies; export finance cases not in compliance with the arrangement; foreign export credit agency activities not consistent with the WTO agreement on subsidies and countervailing measures].
  - Reference: 12 U.S.C. § 635g-1(a) (2017)
- The Secretary and the Bank jointly should update and revise, as needed, the principles, process, and standards developed pursuant to subparagraph (A), and, on doing so, shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a copy of the principles, processes, and standards so updated and revised.
  - Reference: 12 U.S.C. § 635i-3(b)(5)(E) (2017)

- The Bank. . . shall submit an annual report on tied aid credits to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.
  - Reference: 12 U.S.C. § 635i-3(g) (2017)

*Review Commissions:* None

*Advisory Commissions:* The Board of Directors shall establish and use an advisory committee to advise the Board of Directors on the Development and implementation of policies and programs designed to support the expansion described in subparagraph (A) [expansion of Bank’s financial commitments in sub-Saharan Africa].

- Reference: 12 U.S.C. § 635(b)(9)(B) (2017)
- There is established an Advisory Committee. . . [which] shall advise the Bank on its programs.
  - Reference: 12 U.S.C. § 635a(d) (2017)
- The tied aid credit program shall be administered by the Bank. . . in consultation with the National Advisory Council on International Monetary and Financial Policies.
  - Reference: 12 U.S.C. § 635i-3(b)(2)(C) (2017)

*Action Require Outside Approval:* Only in cases where the President, after consultation with the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, determines that such action would be in the national interest where such action would clearly and importantly advance United States policy in such areas as international terrorism (including, when relevant, a foreign nation’s lack of cooperation in efforts to eradicate terrorism), nuclear proliferation, the enforcement of the Foreign Corrupt Practices Act of 1977, the Arms Export Control Act, the International Emergency Economic Powers Act, or the Export Administration Act of 1979, environmental protection and human rights (such as are provided in the Universal Declaration of Human Rights adopted by the United Nations General Assembly on December 10, 1948) (including child labor), should the Export-Import bank deny applications for credit for nonfinancial or noncommercial considerations.

- Reference: 12 U.S.C. § 635(b)(1)(B) (2017)
- The Board shall not give approval to guarantee or insure a sale of defense articles or devices unless the President determines, in accordance with subparagraph (C), that it is in the national interest of the United States for the Bank to provide such guarantee or insurance; the President determines, after consultation with the Assistant Secretary of State for Human Rights and Humanitarian Affairs, that the purchasing country has complied with all restrictions imposed by the United States on the end use of any defense articles or services for which a guarantee or insurance was provided under subparagraph (B), and has not used any such defense articles or services to engage in a consistent pattern of gross violations of internationally recognized human rights and such determinations have been report to the Speaker and the Committee on Financial Services of the House of Representatives, and to the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate, not less than 25 days of continuous session of the Congress before the date of such approval.
  - Reference: 12 U.S.C. § 635(b)(6)(D)(i) (2017)
- The Bank may not guarantee, insure, or extend (or participate in the extension of) credit in connection with any export of any good (other than food or an agricultural commodity) or service to the People’s Republic of Angola until the President certifies to the Congress

that free and fair elections have been held in Angola in which all participants were afforded free and fair access, and that the government of Angola [is seeking progress protecting internationally recognized human rights and freedoms]

- Reference: 12 U.S.C. § 635(b)(11) (2017)
- Upon receipt of authorization by the Secretary of the Treasury [to provide guarantees, insurance, and credits to competing United States sellers], the Export-Import Bank may provide financing to match that offered by the foreign official export credit entity: Provided, however, that loans, guarantees and insurance provided under this authority shall conform to all provisions of the Export-Import Bank Act of 1945, as amended,
- The Secretary [of the Treasury] and the Bank jointly shall develop a process for and the principles and standards to be used in, determining how the amounts in the Tied Aid Credit Fund could be used most effectively and efficiently to carry out the purposes of subsection (a)(6) of this section.
  - Reference: 12 U.S.C. § 635i-3(b)(5)(A) (2017)
- Case-by-case decisions on whether to approve the use of the Tied Aid Credit Fund shall be made by the Board of Directors, except that the approval of the Board of Directors (or a commitment letter based on that approval) shall not become final (except as provided in subclause (V)), if the Secretary indicates to the President of the Bank in writing the Secretary's intention to appeal the decision of the Board of Directors to the President of the United States and makes the appeal in writing not later than 20 days after the meeting at which the Board of Directors considered the application.
  - Reference: 12 U.S.C. § 635i-3(b)(5)(A)(ii)(IV) (2017)
- The Bank shall not grant final approval of an application for any tied aid credit (or a commitment letter based on that approval) if the President of the United States, after consulting with the President of the Bank and the Secretary, determines within 30 days of an appeal by the Secretary under subclause (IV) that the extension of the tied aid credit would materially impede achieving the purposes described in subsection (a)(6). If no such Presidential determination is made during the 30-day period, the approval by the Bank of the application (or related commitment letter) that was the subject of such appeal shall become final.
  - Reference: 12 U.S.C. § 635i-3(b)(5)(A)(ii)(IV) (2017)

*Legislative Veto:* None

*Adjudication:* None

## **FARM CREDIT ADMINISTRATION**

*Date of Creation:* March 27, 1933<sup>371</sup>

*Statute:* 12 U.S.C. §§ 2241-2276 (2017)

*Authorizing Language:* The Farm Credit Administration shall be an independent agency in the executive branch of the Government.

- Reference: 12 U.S.C. § 2241 (2017)

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<sup>371</sup> Executive Order No. 6,084 (1933). President Franklin D. Roosevelt's Executive Order created the Farm Credit Administration as a free-standing entity. In 1939, the Farm Credit Administration was transferred to the Department of Agriculture. Reorganization Plan No. 1 of 1939. Congress made the Farm Credit Administration an independent agency in 1953. Farm Credit Act of 1953, Pub. L. No. 202, 67 Stat. 390 (1953).

*Commissioners/Board Members:* The management of the Farm Credit Administration shall be vested in a Farm Credit Administration Board. The Board shall consist of three members. . . Members of the Board shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 12 U.S.C. § 2242(a) (2017)

*Quorum Rules:* A quorum shall consist of two members of the Board.

- Reference: 12 U.S.C. § 2242(c) (2017)

*Agency Specific Personnel:* The Chairman may set and adjust the rates of basic pay for employees of the Administration without regard to the provisions of chapter 51, or subchapter III of chapter 53, of Title 5. The Chairman may provide such additional compensation and benefits to employees of the Administration as is necessary to maintain comparability with the total amount of compensation and benefits provided by other Federal bank regulatory agencies.

- Reference: 12 U.S.C. § 2245(c)(2)(A) (2017)

*Limitation on Appointment:* The members of the Board shall be ineligible during the time they are in office and for two years thereafter to hold any office, position, or employment in any institution of the Farm Credit System.

- Reference: 12 U.S.C. § 2242(a) (2017)
- The [members of the] Board. . . shall be citizens of the United States.
  - Reference: 12 U.S.C. § 2242(a) (2017)
- The President shall appoint members of the Board who are experienced or knowledgeable in agricultural economics and financial reporting and disclosure; are experienced or knowledgeable in the regulation of financial entities; or have a strong financial, legal, or regulatory background.
  - Reference: 12 U.S.C. § 2242(e) (2017)

*Party Balancing:* Not more than two members of the Board shall be members of the same political party.

- Reference: 12 U.S.C. § 2242(a) (2017)

*Fixed Terms:* The term of office of each member of the Board shall be six years.

- Reference: 12 U.S.C. § 2242(b) (2017)

*Staggered Terms:* The terms of the two members, other than the Chairman, first appointed under subsection (a) of this section shall expire, one on the expiration of two years after the date of appointment and one on the expiration of four years after the date of appointment.

- Reference: 12 U.S.C. § 2242(b) (2017)

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* Any member of the Board shall continue to serve as such after the expiration of the member's term until a successor has been appointed and qualified.

- Reference: 12 U.S.C. § 2242(b) (2017)

*Who is Head of Agency:* Of the persons thus appointed, one shall be designated by the President to serve as Chairman of the Board for the duration of the member's term.

- Reference: 12 U.S.C. § 2242(a) (2017)
- The Chairman of the Board shall be the chief executive officer of the Farm Credit Administration.
  - Reference: 12 U.S.C. § 2244 (2017)

*OMB Review:* [The Farm Credit System shall] make annual reports directly to Congress on the condition of the System and its institutions, based on the examinations carried out under section 2254 of this title, and on the manner and extent to which the purposes and objectives of this chapter are being carried out and, from time to time, recommend directly legislative changes.<sup>372</sup>

- Reference: 12 U.S.C. § 2252(a)(3)

*Independent Litigating:* Except as provided in section 518 of Title 28, relating to litigation before the Supreme Court, attorneys designated by the Chairman shall represent the Farm Credit Administration in any civil proceeding or civil action brought in connection with the administration of conservatorships and receiverships. Attorneys designated by the Chairman may represent the Farm Credit Administration in any other civil proceedings or civil action when so authorized by the Attorney General under provisions of Title 28.

- Reference: 12 U.S.C. § 2244(c) (2017)

*Independent Sources of Funding:* The Farm Credit Administration may dispose of property so acquired and any amounts collected from the disposition of such property shall be deposited in the special fund provided for in section 2250(b) of this title and shall be available to the Administration in the same manner and for the same purposes as the funds collected under section 2250(a) of this title.

- Reference: 12 U.S.C. § 2249 (2017)
- On the basis of the determinations made under paragraph (a) [amount of assessments required to pay administrative expenses and maintain a necessary reserve], the Farm Credit Administration shall apportion the amount of the assessment described in paragraph (1)(B) among the System institutions on a basis that is determined to be equitable by the Farm Credit Administration; assess and collect such apportioned amounts from time to time during the fiscal year as determined necessary by the Farm Credit Administration; and assess and collect from the Mortgage Corporation, from time to time during the fiscal year, the amount described in paragraph (1)(C). The amounts collected under subsection (a) of this section shall be deposited in the Farm Credit Administration Administrative Expenses Account. The Expense Account shall be maintained in the Treasury of the United States and shall be available, without regard, for purposes of sequestration, to the Balanced Budget and Emergency Deficit Control Act of 1985, to pay the expenses of the Farm Credit Administration.
- Reference: 12 U.S.C. § 2250 (2017)

*Reporting Requirements:* [The Farm Credit System shall] make annual reports directly to Congress on the condition of the System and its institutions, based on the examinations carried out under section 2254 of this title, and on the manner and extent to which the purposes and objectives of this chapter are being carried out and, from time to time, recommend directly legislative changes.

- Reference: 12 U.S.C. § 2252(a)(3)
- At least thirty days prior to publishing any proposed regulation in the Federal Register, the Farm Credit Administration shall transmit a copy of the regulation to the Committee

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<sup>372</sup> OMB Circular A-11 identifies the Farm Credit Administration as an agency not subject to budget review by law or custom. OFFICE OF MGMT. & BUDGET, EXECUTIVE OFFICE OF THE PRESIDENT, OMB CIRCULAR A-11 (2017). See also, Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget “Bypass” Authorities (Feb. 20, 2001), *available at* <http://www.citizen.org/documents/OMBDocument1.pdf>.

on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. The Farm Credit Administration shall also transmit to such committees a copy of any final regulation prior to its publication in the Federal Register. Except as provided in paragraph (2) of this subsection, no final regulation of the Farm Credit Administration shall become effective prior to the expiration of thirty calendar days after it is published in the Federal Register during which either or both Houses of the Congress are in session. In case of an emergency, a final regulation of the Farm Credit Administration may become effective without regard to the last sentence of paragraph (1) of this subsection if the Farm Credit Administration notifies in writing the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate setting forth the reasons why it is necessary to make the regulation effective prior to the expiration of the thirty-day period.

- Reference: 12 U.S.C. § 2252(c) (2017)
- If there are any unresolved differences between the Farm Credit Administration and the Board of Governors of the Federal Reserve System as to whether any regulation implementing section 2128(b) of this title or the other provisions of subchapter II relating to the authority under subsection 2128(b) of this title conforms to national banking policies, objectives and limitations, simultaneously with promulgation of any such regulation under this chapter, and simultaneously with promulgation of any regulation implementing section 2015(b) of this title, the Farm Credit Administration shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives.
  - Reference: 12 U.S.C. § 2252(d)(1) (2017)

*Review Commissions:* None

*Advisory Commissions:* The Chairman of the Board, subject to the approval of the Board, may establish one or more advisory committees in accordance with the Federal Advisory Committee Act.

- Reference: 12 U.S.C. § 2246 (2017)

*Action Require Outside Approval:* The Farm Credit Administration may approve a charter request under subparagraph (A) only on the approval of the respective boards of directors of the associations that, if the charter request is approved, would exercise like lending authority in any of the territory that is the subject of the charter request; a majority vote of the stockholders (if any) of each association described in clause (i) voting, in person or by proxy, at a duly authorized stockholder's meeting; and the respective boards of directors of the Farm Credit Banks that, if the charter request is approved, would exercise, either directly or through associations, like lending authority in any of the territory described in subparagraph (A)(i).

- Reference: 12 U.S.C. § 2252(a)(13)(B) (2017)
- The Farm Credit Administration may approve a charter request under subparagraph (A) only on the approval of the respective boards of directors of the associations that, if the charter request is approved, would exercise like lending authority in any of the territory that is the subject of the charter request; a majority vote of the stockholders (if any) of each association described in clause (i) voting, in person or by proxy, at a duly authorized stockholder's meeting; and the respective boards of directors of the Farm Credit Banks that, if the charter request is approved, would exercise, either directly or through

associations, like lending authority in any of the territory described in subparagraph (A)(i).

- Reference: 12 U.S.C. § 2252(a)(14)(B) (2017)

*Legislative Veto:* If there are any unresolved differences between the Farm Credit Administration and the Board of Governors of the Federal Reserve System as to whether any regulation implementing section 2128(b) of this title or the other provisions of subchapter II relating to the authority under subsection 2128(b) of this title conforms to national banking policies, objectives and limitations, simultaneously with promulgation of any such regulation under this chapter, and simultaneously with promulgation of any regulation implementing section 2015(b) of this title, the Farm Credit Administration shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in paragraph (2), the regulation shall not become effective if, within ninety calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution [disapproving the regulation]. . . If at the end of sixty calendar days of continuous session of Congress after the date of the promulgation of a regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the regulation, and neither House has adopted such a resolution, the regulation may go into effect immediately. If, within such sixty calendar days, such committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the regulation may go into effect not sooner than ninety calendar days of continuous session of Congress after its promulgation unless disapproved as provided in paragraph (1).

- Reference: 12 U.S.C. § 2252(d) (2017)

*Adjudication:* If, in the opinion of the Farm Credit Administration, any institution in the Farm Credit System, or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such an institution is engaging or has engaged, or the Farm Credit Administration has reasonable cause to believe that the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution is about to engage, in unsafe or unsound practice in conducting the business of such institution, or is violating or has violated, or the Farm Credit Administration has reasonable cause to believe that the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution is about to violate a law, rule, regulation, or any condition imposed in writing by the Farm Credit administration in connection with the granting of any application or other request by the institution or any written agreement entered into with the Farm Credit Administration, the Farm Credit Administration may issue and serve upon the institution or such director, employee, agent, or other person a notice of charges in respect thereof. . . In the event of such consent [to a cease and desist order], or if upon the record made at any such hearing, the Farm Credit Administration shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Farm Credit administration may issue and serve upon the institution or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution an order to cease and desist from any such violation or practice.

- Reference: 12 U.S.C. § 2261(a) (2017)

- A notice of intention to remove a director, officer, or other person from office or to prohibit such director's, officer's, or other person's participation in the conduct of the affairs of an institution in the Farm Credit System [for unsafe or unsound practice; breach of fiduciary duty; personal dishonesty; willful or continuing disregard; unfitness to continue in office or to participate in affairs of institution], shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. . .In the event of such consent [to removal or prohibition], or if upon the record made at any such hearing, the Farm Credit Administration shall find that any of the grounds specified in such notice have been established, the Farm Credit Administration may issue such orders of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the institution, as it may deem appropriate.
  - Reference: 12 U.S.C. § 2264 (d) (2017)
- The System institution or person assessed [civil money penalty for violation the terms of a final order under 2261 or 2262] shall be afforded an opportunity for a hearing by the Farm Credit Administration, upon request made within ten days after issuance of the notice of assessment. IN such hearing all issues shall be determined on the record pursuant to section 554 of Title 5.
  - Reference: 12 U.S.C. § 2268(c) (2017)
- In the course of or in connection with any proceeding under this part or any examination or investigation under this chapter, the Farm Credit Administration or any designated representative thereof, including any person designated to conduct any hearing under this party, shall have the power to administer oaths and affirmations, to take or cause to be taken depositions, and to issue, revoke, quash, or modify subpoenas and subpoenas duces tecum; and the Farm Credit Administration is empowered to make rules and regulations with respect to any such proceedings, examinations, or investigations.
  - Reference: 12 U.S.C. § 2273 (2017)

### **FARM CREDIT SYSTEM INSURANCE CORPORATION**

*Date of Creation:* January 6, 1988<sup>373</sup>

*Statute:* 12 U.S.C. §§ 2277a-2277a-14 (2017)

*Authorizing Language:* There is hereby established the Farm Credit System Insurance Corporation.

- Reference: 12 U.S.C. § 2277a-1 (2017)
- On January 6, 1988, the Corporation shall become a body corporate.
  - Reference: 12 U.S.C. § 2277a-7 (2017)

*Commissioners/Board Members:* The Corporation shall be managed by a Board of Directors that shall consist of the members of the Farm Credit Administration Board.

- Reference: 12 U.S.C. § 2277a-2(a) (2017)

*Quorum Rules:* None

*Agency Specific Personnel:* The Corporation may appoint by its Board of Directors such officers and employees as are not otherwise provided for in this part, define their duties, fix their

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<sup>373</sup> Agricultural Credit Act of 1987, Pub. L. No. 100-233, 101 Stat. 1568 (1987).

compensation, and require bonds of them and fix the penalty thereof, and dismiss at pleasure of such officers or employees.

- Reference: 12 U.S.C. § 2277a-7(5) (2017)

*Limitation on Appointment:* The members of the Board shall be ineligible during the time they are in office and for two years thereafter to hold any office, position, or employment in any institution of the Farm Credit System.

- Reference: 12 U.S.C. § 2242(a) (2017)
- The [members of the] Board. . . shall be citizens of the United States.
  - Reference: 12 U.S.C. § 2242(a) (2017)
- The President shall appoint members of the Board who are experienced or knowledgeable in agricultural economics and financial reporting and disclosure; are experienced or knowledgeable in the regulation of financial entities; or have a strong financial, legal, or regulatory background.
  - Reference: 12 U.S.C. § 2242(e) (2017)

*Party Balancing:* Not more than two members of the Board shall be members of the same political party.

- Reference: 12 U.S.C. § 2242(a) (2017)

*Fixed Terms:* The term of office of each member of the Board shall be six years.

- Reference: 12 U.S.C. § 2242(b) (2017)

*Staggered Terms:* The terms of the two members, other than the Chairman [of the FCA], first appointed under subsection (a) of this section shall expire, one on the expiration of two years after the date of appointment and one on the expiration of four years after the date of appointment.

- Reference: 12 U.S.C. § 2242(b) (2017)

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The Board of Directors shall be chaired by any Board member other than the Chairman of the Farm Credit Administration Board.

- Reference: 12 U.S.C. § 2277a-2

*OMB Review:* None

*Independent Litigating:* The Corporation may sue and be sued, complain and defend, in any court of law or equity, State or Federal.

- Reference: 12 U.S.C. § 2277a-7(4) (2017)

*Independent Sources of Funding:* If at the end of any calendar year the aggregate amounts of the Farm Credit Insurance Fund does not exceed the secure base amount, subject to paragraph (3), the premium due from any insured System bank for the calendar year shall be equal to the sum of the average outstanding insured obligations issued by the bank for the calendar year, after deducting from the obligations the percentages of the guaranteed portions of loans and investments described in paragraph (2), multiplied by 0.0020 and the product obtained by multiplying the sum of the average principal outstanding for the calendar year on loans made by the bank that are in nonaccrual status and the average amount outstanding for the calendar year of other-than-temporarily impaired investments made by the bank by 0.0010.

- Reference: 12 U.S.C. § 2277a-4(a) (2017)

- There is hereby established in the Farm Credit Insurance Fund an Allocated Insurance Reserves Account for each insured System bank and subject to paragraph (6)(C), for all holders, in the aggregate, of Financial Assistance Corporation stock. . .If, at the end of any calendar year, the aggregate of the amounts in the Farm Credit Insurance Fund exceeds the secure base amount, the Corporation shall allocate to the Allocated Insurance Reserves Accounts the excess amount less the amount that the Corporation, in its sole discretion, determines to be the sum of the estimated operating expenses and estimated insurance obligations of the Corporation for the immediately succeeding calendar year.
  - Reference: 12 U.S.C. § 2277a-4(e) (2017)
- Each insured System bank shall pay to the Corporation the premium payments required under subsection (a), not more frequently than once in each calendar quarter, in such manner and at such 1 or more times as the Board of Directors shall prescribe.
  - Reference: 12 U.S.C. § 2277a-5(c) (2017)
- There is hereby established a Farm Credit Insurance Fund for insuring the timely payment of principal and interest on insured obligations. The assets in the Fund shall be held by the Corporation for the uses and purposes of the Corporation. . .The Corporation shall deposit in the Insurance Fund all premium payments received by the Corporation under this part. Before January 1, 1993, the Corporation shall expend amounts in the Insurance Fund to the extent necessary to insure the timely payment of interest and principal on insured obligations. Beginning on January 1, 1993, the Corporation shall use amounts in the Insurance Fund to satisfy System institution defaults through the purchase of preferred stock or other payments as provided for in section 2278b-6(d)(3) of this title and ensure the retirement of eligible borrower stock at pay value under section 2162 of this title. The Corporation may expend amounts in the Insurance Fund to carry out section 2277a-10 of this title and the cover the operating costs of the Corporation.
  - Reference: 12 U.S.C. § 2277a-9 (2017)

*Reporting Requirements:* The Corporation, in its annual report to Congress, shall report the total amount saved, or it estimates to be saved, by the Corporation exercising the authority provided to the Corporation in this subsection.

- Reference: 12 U.S.C. § 2277a-10(a)(5) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **FEDERAL AGRICULTURAL MORTGAGE CORPORATION**

*Date of Creation:* January 6, 1988<sup>374</sup>

*Statute:* 12 U.S.C. §§ 2279aa-1-2279aa-14 (2017)

*Authorizing Language:* There is hereby established a corporation to be known as the Federal Agricultural Mortgage Corporation, which shall be a federally chartered instrumentality of the United States.

- Reference: 12 U.S.C. § 2279aa-1(a)(1)

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<sup>374</sup> Agricultural Credit Act of 1987, Pub. L. No. 100-233, 101 Stat. 1568 (1987).

*Commissioners/Board Members:* The permanent board shall consist of 15 members, of which 5 members shall be elected by holders of common stock that are insurance companies, banks, or other financial institutions or entities; 5 members shall be elected by holders of common stock that are Farm Credit System Institutions; and 5 members which shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 12 U.S.C. § 2279aa-2(b)(2) (2017)

*Quorum Rules:* 8 members of the permanent board shall constitute a quorum.

- Reference: 12 U.S.C. § 2279aa-2(b)(7) (2017)

*Agency Specific Personnel:* The Corporation shall be a body corporate and shall have the following powers: . . .to provide for a president, 1 or more vice presidents, secretary, treasurer, and such other officers, employees, and agents, as may be necessary, define their duties and compensation levels, all without regard to Title 5.

- Reference: 12 U.S.C. § 2279aa-3(c)(4) (2017)

*Limitation on Appointment:* [The 5 PAS members} shall not be, or have been, officers or directors of any financial institutions or entities; which members shall be representatives of the general public. . .of which members at least 2 shall be experienced in farming or ranching.

- Reference: 12 U.S.C. § 2279aa-2(b)(2) (2017)

*Party Balancing:* [Of the 5 PAS members] not more than 3 shall be members of the same political party.

- Reference: 12 U.S.C. § 2279aa-2(b)(2)(iii) (2017)

*Fixed Terms:* The members elected. . .shall each be elected annually for a term ending on the date of the next annual meeting of the common stockholders of the Corporation.

- Reference: 12 U.S.C. § 2279aa-2(b)(6)(B) (2017)

*Staggered Terms:* None<sup>375</sup>

*For Cause:* None

*Serve President:* The members appointed by the President shall serve at the pleasure of the President.

- Reference: 12 U.S.C. § 2279aa-2(b)(6)(A) (2017)

*Continuation until Replacement:* The members elected. . .shall serve until their successors are elected and qualified.

- Reference: 12 U.S.C. § 2279aa-2(b)(6)(B) (2017)
- A member may serve after the expiration of the term of the member until the successor of the member has taken office.
  - Reference: 12 U.S.C. § 2279aa-2(b)(6)(D) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* The President shall designate 1 of the members of the permanent board who are appointed by the President as the chairperson of the permanent board.

- Reference: 12 U.S.C. § 2279aa-2(b)(10) (2017)

*OMB Review:* None

*Independent Litigating:* The Corporation shall be a body corporate and shall have the following powers: . . .to sue and be sued in its corporate capacity and to complain and defend in any

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<sup>375</sup> However, the terms of the different types of board members (elected and appointed) are different, leading to turnover within the agency that creates the effect of staggered terms.

action brought by or against the Corporation in any State or Federal court of competent jurisdiction.

- Reference: 12 U.S.C. § 2279aa-3(c)(4) (2017)

*Independent Sources of Funding:* After the Board has been duly constituted, subject to the other provisions of this subchapter and other commitments and requirements established pursuant to law, the Corporation may provide guarantees on terms and conditions determined by the Corporation of securities issued on the security of, or in participation in, pooled interests in qualified loans.

- Reference: 12 U.S.C. § 2279aa-3(a) (2017)
- The Corporation shall be a body corporate and shall have the following powers: . . .to issue stock in the manner provided in section 2279aa-4
  - Reference: 12 U.S.C. § 2279aa-3(c)(2) (2017)
- At the time a guarantee is issued by the Corporation, the Corporation shall assess the certified facility a fee of not more than ½ of 1 percent of the initial principal amount of each pool of qualified loans. . .So much of the fees assessed under this section as the Board determines to be necessary shall be set aside by the Corporation in a segregated account as reserve against losses arising out of the guarantee activities of the Corporation.
  - Reference: 12 U.S.C. § 2279aa-10 (2017)
- The Corporation may impose charges or fees in reasonable amounts in connection with the administration of its activities under this subchapter to recover its costs for performing such administration,
  - Reference: 12 U.S.C. § 2279aa-10(d) (2017)

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **FEDERAL COMMUNICATIONS COMMISSION**

*Date of Creation:* June 19, 1934<sup>376</sup>

*Statute:* 47 U.S.C. §§ 151-622 (2017)

*Authorizing Language:* There is created a commission to be known as the “Federal Communications Commission.

- Reference: 47 U.S.C. § 151 (2017)

*Commissioners/Board Members:* The Federal Communications Commission shall be composed of five commissioners appointed by the President, by and with the advice and consent of the Senate.

- Reference: 47 U.S.C. § 154(a) (2017)

*Quorum Rules:* Three members of the Commission shall constitute a quorum thereof.

- Reference: 47 U.S.C. § 154(h) (2017)

*Agency Specific Personnel:* Without regard to the civil-service laws, but subject to chapter 51 and subchapter III of chapter 53 of Title 5, each commissioner may appoint three

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<sup>376</sup> Communications Act of 1934, Pub. L. No. 416, 48 Stat. 1064 (1934).

professional assistants and a secretary, each of whom shall perform such duties as such commissioner shall direct. In addition, the Chairman may appoint, without regard to the civil-service laws, but subject to chapter 51 and subchapter III of chapter 53 of Title 5, an administrative assistant who shall perform such duties as the chairman shall direct.

- Reference: 47 U.S.C. § 154(f)(2) (2017)

*Limitation on Appointment:* Each member of the Commission shall be a citizen of the United States.

- Reference: 47 U.S.C. § 154(b)(1) (2017)
- No member of the Commission or person employed by the Commission shall be financially interested in any company or other entity engaged in the manufacture or sale of telecommunications equipment which is subject to regulation by the Commission; be financially interested in any company or other entity engaged in the business of communication by wire or radio or in the use of the electromagnetic spectrum; be financially interested in any company or other entity which controls any company or other entity specified in clause (i) or clause (ii), or which derives a significant portion of its total income from ownership or stocks, bonds, or other securities of any such company or other entity; or be employed by, hold any official relation to, or own any stocks, bonds or other securities of, any person significantly regulated by the Commission under this chapter; except that the prohibitions established in this paragraph shall apply only to financial interest in any company or other entity which has a significant interest in communications, manufacturing, or sales activities which are subject to regulation by the Commission.
  - Reference: 47 U.S.C. § 154(b)(2)(A) (2017)

*Party Balancing:* The maximum number of commissioners who may be members of the same political party shall be a number equal to the least number of commissioners which constitutes a majority of the full membership of the Commission.

- Reference: 47 U.S.C. § 154(b)(5) (2017)

*Fixed Terms:* Commissioners shall be appointed for terms of five years.

- Reference: 47 U.S.C. § 154(c) (2017)

*Staggered Terms:* None

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* Commissioners shall . . . [serve] until their successors are appointed and have been confirmed and taken the oath of office, except that they shall not continue to serve beyond the expiration of the next session of Congress subsequent to the expiration of said fixed term of office.

- Reference: 47 U.S.C. § 154(c) (2017)

*Acting Service Rules:* In the case of a vacancy in the office of the chairman of the Commission, or the absence or inability of the chairman to serve, the Commission may temporarily designate one of its members to act as chairman until the cause or circumstance requiring such designation shall have been eliminated or corrected.

- Reference: 47 U.S.C. § 155(a) (2017)

*Who is Head of Agency:* One of [the commissioners] the President shall designate as chairman.

- Reference: 47 U.S.C. § 154(a) (2017)
- The member of the Commission designated by the President as chairman shall be the chief executive officer of the Commission.

- Reference: 47 U.S.C. § 155(a) (2017)

*OMB Review:* None<sup>377</sup>

*Independent Litigating:* None

*Independent Sources of Funding:* If the necessary expenses specified in the last sentence of paragraph (1) have been incurred for the purpose of enabling commissioners or employees of the Commission to attend and participate in any convention, conference, or meeting; such attendance and participation are in furtherance of the functions of the Commission; and such attendance and participation are requested by the person sponsoring such convention, conference, or meeting; then the Commission shall have authority to accept direct reimbursement from such sponsor for such necessary expenses. . . Funds which are received by the Commission as reimbursements under the provisions of this paragraph after the close of a fiscal year shall remain available for obligation.

- Reference: 47 U.S.C. § 154(g)(2)(A); (E) (2017)
- The Commission shall assess and collect application fees at such rates as the Commission shall establish or at such modified rates as it shall establish pursuant to the provisions of subsection (b) of this section. . . Moneys received from application fees established under this section shall be deposited in the general fund of the Treasury to reimburse the United States for amounts appropriated for use by the Commission in carrying out its functions under this chapter.

- Reference: 47 U.S.C. § 158 (2017)

- The Commission, in accordance with this section, shall assess and collect regulatory fees to recover the costs of the following regulatory activities of the Commission: enforcement activities, policy and rulemaking activities, user information services, and international activities. The fees described in paragraph (1) of this subsection shall be collected only if, and only in the total amounts, required in Appropriations Acts. . . Moneys received from fees established under this section shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Commission.

- Reference: 47 U.S.C. § 159 (2017)

*Reporting Requirements:* The Commission shall submit to the appropriate committees of Congress. . . quarterly reports specifying reimbursement which the Commission has accepted under this paragraph.

- Reference: 47 U.S.C. § 154(g)(2)(C) (2017)
- The Commission shall make an annual report to Congress, copies of which shall be distributed as are other reports transmitted to Congress.
- Reference: 47 U.S.C. § 154(k) (2017)
- The Commission shall transmit to the Congress notification of any such adjustment [of the schedule of application fees] not later than 90 days before the effective date of such adjustment.
- Reference: 47 U.S.C. § 158(b)(1) (2017)

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<sup>377</sup> The Federal Communications Commission is identified as an “independent regulatory agency” and thus is exempt from OMB rule review. See Exec. Order No. 12866, 58 Fed. Reg. 51735 (1993); 44 U.S.C. § 3502(5) (2017). See also, Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget “Bypass” Authorities (Feb. 20, 2001), available at <http://www.citizen.org/documents/OMBDocument1.pdf> (suggesting the FCC has informal legislative bypass authority).

- The Commission shall transmit to the Congress notification of any adjustment [of the schedule of regulatory fees] made pursuant to paragraph (2) immediately upon the adoption of such adjustment and transmit to the Congress notification of any amendment made pursuant to paragraph (3) not later than 90 days before the effective date of such amendment.
  - Reference: 47 U.S.C. § 159(b)(4) (2017)
- The Commission shall investigate and report to Congress as to the need for legislation to define further or harmonize the powers of the Commission and of State commissioners with respect to matters to which this section relates.
  - Reference: 47 U.S.C. § 220(j) (2017)
- The Commission shall submit an annual report to Congress regarding the enforcement during the past year of the provisions of this section relating to sending of unsolicited advertisements to telephone facsimile machines.
  - Reference: 47 U.S.C. § 227(h) (2017)
- Every 3 years following the completion of the proceeding required by subsection (a) [identifying and eliminating market entry barriers for small businesses], the Commission shall review and report to Congress on any regulations prescribed to eliminate barriers within its jurisdiction that are identified under subsection (a) of this section and that can be prescribed consistent with the public interest, convenience, and necessity and the statutory barriers identified under subsection (a) of this section that the Commission recommends be eliminated, consistent with the public interest, convenience, and necessity.
  - Reference: 47 U.S.C. § 257(c) (2017)
- At least 3 months before any incentive auction conducted under this subparagraph, the Chairman of the Commission . . . shall notify the appropriate committees of Congress of the methodology for calculating the amounts that will be shared with licensees under clause (i).
  - Reference: 47 U.S.C. § 309(j)(8)(G)(iv) (2017)
- At the conclusion of the decision regarding whether to permit such operations in such band, the Commission shall submit to the congressional committees described in paragraph (2) official copies of the documents containing the final decision of the Commission. If the decision is to permit such operations in such band, such documents shall contain or be accompanied by an explanation of how the concerns described in subsection (a) [of widespread harmful interference] have been resolved.
  - Reference: 47 U.S.C § 343(b) (2017)
- The Commission shall, beginning not later than 18 months after the promulgation of the regulations required by subsection (c) of this section, annually report to Congress on the status of competition in the market for the delivery of video programming.
  - Reference: 47 U.S.C. § 548(g) (2017)
- Nine years after October 8, 2010, the Commission shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report assessing the types of described video programming that is available to consumers; consumer use of such programming; the costs to program owners, providers, and distributors in designated market areas outside of the top 60 of creating such programming; the benefits to consumers of such programming; the amount of such programming currently available;

and the need for additional described programming in designated market areas outside the top 60.

- Reference: 47 U.S.C. § 613(f)(4)(C)(iii) (2017)
- Every two years after October 8, 2010, the Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that [describes enforcement actions by the commission for violations of provisions relating to access by persons with disabilities, access to advanced communications services and equipment, and Internet browsers built into telephones used with public mobile services].
  - Reference: 47 U.S.C. § 618(b)(1) (2017)

*Review Commissions:* None

*Advisory Commissions:* The Commission, in coordinating the assignment of frequencies to stations in the private mobile services and in the fixed services (as defined by the Commission by rule) shall have the authority to utilize assistance furnished by advisory coordinating committees consisting of individuals who are not officers or employees of the Federal Government.

- Reference: 47 U.S.C. § 332(b) (2017)
- For the purpose of achieving equal access to emergency services by individuals with disabilities, as a part of the migration to a national Internet protocol-enabled emergency network, not later than 60 days after October 8, 2010, the Chairman of the Commission shall establish an advisory committee, to be known as the Emergency Access Advisory Committee.
  - Reference: 47 U.S.C. § 615c(a) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:*<sup>378</sup> In every case of adjudication (as defined in section 551 of Title 5) which has been designated by the Commission for hearing, [section 409 describes the procedures for such adjudication]. . . For the purposes of this chapter, the Commission shall have the power to require by subpoena the attendance and testimony of witnesses and the production of all books, papers, schedules of charges, contracts, agreements, and documents relating to any matter under investigation.

- Reference: 47 U.S.C. § 409 (2017)
- At the discretion of the Commission, a forfeiture penalty may be determined against a person under this subsection after notice and an opportunity for a hearing before the Commission or an administrative law judge thereof in accordance with section 554 of Title 5.
  - Reference: 47 U.S.C. § 503(b)(3)(A) (2017)

## **FEDERAL DEPOSIT INSURANCE CORPORATION**

*Date of Creation:* June 16, 1933<sup>379</sup>

*Statute:* 12 U.S.C. §§ 1811-1835a (2017)

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<sup>378</sup> Employs administrative law judges. Association of Administrative Law Judges. “Agencies Employing Administrative Law Judges,” <http://www.aalj.org/agencies-employing-administrative-law-judges> (accessed October 30, 2017).

<sup>379</sup> Banking Act of 1933, Pub. L. No. 66, 48 Stat. 162

*Authorizing Language:* There is hereby established a Federal Deposit Insurance Corporation.

- Reference: 12 U.S.C. § 1811(a) 92017)

*Commissioners/Board Members:* The management of the Corporation shall be vested in a Board of Directors consisting of 5 members 1 of whom shall be the Comptroller of the Currency; 1 of whom shall be the Director of the Consumer Financial Protection Bureau; and 3 of whom shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 12 U.S.C. § 1812(a)(1) (2017)

*Quorum Rules:* None

*Agency Specific Personnel:* Upon June 16, 1933, the Corporation shall become a body corporate and as such shall have power. . .to appoint by its Board of Directors such officers and employees as are not otherwise provided for in this chapter, to define their duties, fix their compensation, require bonds of them and fix the penalty thereof, and to dismiss at pleasure such officers or employees.

- Reference: 12 U.S.C. § 1819(a) (2017)

*Limitation on Appointment:* [The 3 PAS members shall be appointed] from among individuals who are citizens of the United States, 1 of whom shall have State bank supervisory experience.

- Reference: 12 U.S.C. § 1812(a)(1)(C) (2017)
- No member of the Board of Directors may hold any office, position, or employment in any insured depository institution or any depository institution holding company during the time such member is in office and the 2-year period beginning on the date such member ceases to serve on the Board of Directors. The [2-year] limitation. . .shall not apply to any member who has ceased to serve on the Board of Directors after serving the full term for which such member was appointed.
- Reference: 12 U.S.C. § 1812(e)(1) (2017)
- No member of the Board of Directors may be an officer or director of any insured depository institution, depository institution holding company, Federal Reserve bank, or Federal home loan bank or hold stock in any insured depository institution or depository institution holding company.

- Reference: 12 U.S.C. § 1812(e)(2) (2017)

*Party Balancing:* After February 28, 1993, not more than 3 of the members of the Board of Directors may be members of the same political party.

- Reference: 12 U.S.C. § 1812(a)(2) (2017)

*Fixed Terms:* Each appointed member shall be appointed for a term of 6 years.

- Reference: 12 U.S.C. § 1812(c)(1) (2017)

*Staggered Terms:* None

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* The Chairperson, Vice Chairperson, and each appointed member may continue to serve after the expiration of the term of office to which such member was appointed until a successor has been appointed and qualified.

- Reference: 12 U.S.C. § 1812(c)(3) (2017)

*Acting Service Rules:* In the event of a vacancy in the position of Chairperson or the Board of Directors or during the absence or disability of the Chairperson, the Vice Chairperson shall act as the Chairperson.

- Reference: 12 U.S.C. § 1812(b)(3) (2017)

*Who is Head of Agency:* 1 of the appointed members shall be designated by the President, by and with the advice and consent of the Senate, to serve as Chairperson of the Board of Directors for a term of 5 years.

- Reference: 12 U.S.C. § 1812(b)(1) (2017)

*OMB Review:* None<sup>380</sup>

*Independent Litigating:* Upon June 16, 1933, the Corporation shall become a body corporate and as such shall have power. . .to sue and be sued, and complain and defend, by and through its own attorneys, in any court of law or equity, State of Federal.

- Reference: 12 U.S.C. § 1819(a) (2017)

*Independent Sources of Funding:* Any institution that becomes insured by the Corporation, and any noninsured branch that becomes insured by the Corporation, shall pay the Corporation any fee which the Corporation may be regulation prescribe, after giving due consideration to the need to establish and maintain the reserve ratio in the Deposit Insurance Fund. The fee paid by the depository institution under paragraph (1) shall be credited to the Deposit Insurance Fund.

- Reference: 12 U.S.C. § 1815(d) (2017)
- There is established the Deposit Insurance Fund, which the Corporation shall maintain and administer; use to carry out its insurance purposes, in the manner provided by the subsection; and invest in accordance with section 1823(a) of this title. The Deposit Insurance Fund shall be available to the Corporation for use with respect to insured depository institutions the deposits of which are insured by the Deposit Insurance Fund. . .All amounts assessed against insured depository institutions by the Corporation shall be deposited into the Deposit Insurance Fund.
  - Reference: 12 U.S.C. § 1821(a)(4) (2017)
- There is established a separate fund to be designated as the FSLIC Resolution Fund which shall be managed by the Corporation and separately maintained and not commingled. . .Effective August 10, 1989, the Corporation shall have all rights, powers, and duties to carry out the Corporation’s duties with respect to the assets and liabilities of the FSLIC Resolution Fund that the Corporation otherwise has under this chapter. . .The FSLIC Resolution Fund shall be funded from the following sources to the extent funds are needed in the listed priority: income earned on assets of the FSLIC Resolution Fund; liquidating dividends and payments made on claims received by the FSLIC Resolution Fund from receiverships to the extent such funds are not required by the Resolution Funding Corporation pursuant to section 1441b of this title or the Financing Corporation pursuant to section 1441 of this title; amounts borrowed by the Financing Corporation pursuant to section 1441 of this title.
  - Reference: 12 U.S.C. § 1821a (2017)
- The Corporation is authorized, in its sole discretion and upon such terms and conditions as the Board of Directors may prescribe, to make loans to, to make deposits in, to

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<sup>380</sup> The Federal Deposit Insurance Corporation is identified as an “independent regulatory agency” and thus is exempt from OMB rule review. See Exec. Order No. 12866, 58 Fed. Reg. 51735 (1993); 44 U.S.C. § 3502(5) (2017). Financial regulatory agencies, including the FDIC, are exempt from OMB legislative communications review. 12 U.S.C. § 250 (2017). See also, Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget “Bypass” Authorities (Feb. 20, 2001), available at <http://www.citizen.org/documents/OMBDocument1.pdf>.

purchase the assets or securities of, to assume the liabilities of, or to make contributions to, any insured depository institution if such action is taken to prevent the default of such insured depository institution; if with respect to an insured bank in default, such action is taken to restore such insured bank to normal operation, or if, when severe financial conditions exist which threaten the stability of a significant number of insured depository institutions or of insured depository institutions processing significant financial resources, such action is taken in order to lessen the risk to the Corporation posed by such insured depository institution of such threat of instability.

- Reference: 12 U.S.C. § 1823(c)

*Reporting Requirements:* Within two years after the effective date of the Change in Bank Control Act of 1978, and each year thereafter in each appropriate Federal banking agency's annual report to the Congress, the appropriate Federal banking agency shall report to the Congress the results of the administration of this subsection [change in control of insured depository institutions], and make any recommendations as to changes in the law which in the opinion of the appropriate Federal banking agency would be desirable.

- Reference: 12 U.S.C. § 1817(j)(14)
- Not later than April 5 of any calendar year in which an adjustment is required to be calculated under clause (i) to the standard maximum deposit insurance amount the standard maximum share insurance amount under such clause, the Board of Directors and the National Credit Union Administration Board shall publish in the Federal Register the standard maximum deposit insurance amount, the standard maximum share insurance amount, and the amount of coverage under paragraph (3)(A) and section 1787(k)(3) of this title, as so calculated and jointly submit a report to the Congress containing the amounts described in subclause (I).
  - Reference: 12 U.S.C. § 1821(a)(1)(F)(iii) (2017)
- The Corporation shall annually submit a full report of its operations, activities, budget, receipts, and expenditures for the preceding 12-month period.
  - Reference: 12 U.S.C. § 1827(a) (2017)
- The Federal banking agencies shall jointly submit an annual report to the Committee on Banking, Finance, and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing a description of any difference between any accounting or capital standard used by any such agency and any accounting or capital standard used by any other agency.
  - Reference: 12 U.S.C. § 1831n(c) (2017)
- The Chairperson of the Board of Directors shall submit a bi-annual report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing the Corporation's findings and conclusions with respect to the survey conducted pursuant to subsection (a) of this section, together with any such recommendations for legislative or administrative action as the Chairperson may determine to be appropriate.
  - Reference: 12 U.S.C. § 1831z(b) (2017)
- The Federal Deposit Insurance Corporation. . . in establishing and adjusting schedules of compensation and benefits which are to be determined solely by each agency under applicable provisions of law, shall inform the heads of other agencies and the Congress of such compensation and benefits and shall seek to maintain comparability regarding compensation and benefits.

- Reference: 12 U.S.C. § 1833b (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* By April 1 of 2010, and the 1<sup>st</sup> day of each subsequent 5-year period, the Board of Directors and the National Credit Union Administration Board shall jointly consider the factors set forth under clause (v) and, upon determining that an inflation adjustment is appropriate, shall jointly prescribe the amount by which the standard maximum deposit insurance amount and the standard maximum share insurance amount applicable to any depositor at an insured depository institution shall be increased by calculating the product of \$100,000 and the ratio of the published annual value of the Personal Consumption Expenditures Chair-Type Price Index (or any succeeding index thereto) published by the Department of Commerce, for the calendar year preceding the year in which the adjustment is calculated under this clause, to the published annual value of such index for the calendar year preceding April 1, 2006. The values used in the calculation under subclause (II) shall be, as of the date of the calculation, the values most recently published by the Department of Commerce.

- Reference: 12 U.S.C. § 1821(a)(1)(F)(i) (2017)
- Notwithstanding subparagraphs (A) and (E), if, upon the written recommendation of the Board of Directors (upon a vote of not less than two-thirds of the members of the Board of Directors) and the Board of Governors of the Federal Reserve System (upon a vote of not less than two-thirds of the members of such Board), the Secretary of the Treasury (in consultation with the President) determines that the Corporation's compliance with subparagraphs (A) and (E) with respect to an insured depository institution for which the Corporation has been appointed receiver would have serious adverse effects on economic conditions or financial stability and any action or assistance under this subparagraph would avoid or mitigate such adverse effects, the Corporation may take other action or provide assistance under this section for the purpose of winding up the insured depository institution for which the Corporation has been appointed receiver as necessary to avoid or mitigate such effects.
  - Reference: 12 U.S.C. § 1823(c)(4)(G)(i) (2017)
- The Federal banking agencies shall jointly establish a consumer complaint mechanism, for receiving and expeditiously addressing consumer complaints alleging a violation of regulations issued under the section [insurance customer protections], which shall establish a group within each regulatory agency to receive such complaints, develop procedures for investigating such complaints; develop procedures for informing consumers of rights they may have in connection with such complaints; and develop procedures for addressing concerns raised by such complaints, as appropriate, including procedures for the recovery of losses to the extent appropriate.
  - Reference: 12 U.S.C. § 1831x(f) (2017)
- If, with respect to any provision of the regulations prescribed under this section [insurance customer protections], the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Board of Directors of the Corporation determine jointly that the protection afforded by such provision is greater than the protection provided by comparable provision of the statutes, regulations, orders, or interpretations referred to in subparagraph (A) of any State, the appropriate State regulatory authority shall be notified of such determination in writing. . . If the Federal agencies referred to

clause (i) jointly determine that any provision of the regulations prescribed under this section affords greater protections than a comparable State law, rule, regulation, order, or interpretation, those agencies shall send a written preemption notice to the appropriate State regulatory authority to notify the State that the Federal provision will preempt the State provision and will become applicable unless, not later than 3 years after the date of such notice, the State adopts legislation to override such preemption.

- Reference: 12 U.S.C. § 1831x(g)(2)(B) (2017)

*Legislative Veto:* None

*Adjudication:* If, on the basis of the evidence presented at a hearing before the Board of Directors (or any person designated by the Board for such purpose), in which all issues shall be determined on the record pursuant to section 554 of Title 5 and the written findings of the Board of Directors (or such person) with respect to such evidence (which shall be conclusive), the Board of Directors finds that any unsafe or unsound practice or condition or any violation specified in the notice to an insured depository institution under paragraph (2)(B) or subsection (w) of this section has been established, the Board of Directors may issue an order terminating the insured status of such depository institution effective as of a date subsequent to such finding.

- Reference: 12 U.S.C. § 1818(a)(3) (2017)
- If any claimant request review under this subparagraph in lieu of filing or continuing any action under paragraph (6) [relating to Corporation as a conservator or receiver] and the Corporation agrees to such request, the Corporation shall consider the claim after opportunity for a hearing on the record. The final determination of the Corporation with respect to such claim shall be subject to judicial review under chapter 7 of Title 5.
  - Reference: 12 U.S.C. § 1821(d)(7)(A)

### **FEDERAL ELECTION COMMISSION**

*Date of Creation:* October 15, 1974<sup>381</sup>

*Statute:* 52 U.S.C. §§ 30101-30146 (2017)

*Authorizing Language:* There is established a commission to be known as the Federal Election Commission.

- Reference: 52 U.S.C. § 30106(a)(1) (2017)

*Commissioners/Board Members:* The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives or their designees, ex officio and without the right to vote, and 6 members appointed by the President, by and with the advice and consent of the Senate.

- Reference: 52 U.S.C. § 30106(a)(1) (2017)

*Quorum Rules:* None

*Agency Specific Personnel:* With the approval of the Commission, the staff director may appoint and fix the pay of such additional personnel as he or she considers desirable without regard to the provisions of Title 5 governing appointments in the competitive service.

- Reference: 52 U.S.C. § 30106(f)(1) (2017)

*Limitation on Appointment:* Members shall be chosen on the basis of their experience, integrity, impartiality, and good judgment and members (other than the Secretary of the Senate and

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<sup>381</sup> Federal Election Campaign Act Amendments of 1974, Pub. L. No. 93-443, 88 Stat. 1263 (1974).

the Clerk of the House of Representatives) shall be individuals who, at the time appointed to the Commission, are not elected or appointed officers or employees in the executive, legislative, or judicial branch of the Federal Government.

- Reference: 52 U.S.C. § 30106(a)(3) (2017)

*Party Balancing:* No more than 3 members of the Commission appointed under this paragraph may be affiliated with the same political party.

- Reference: 52 U.S.C. § 30106(a)(1) (2017)

*Fixed Terms:* Members of the Commission shall serve for a single term of 6 years.

- Reference: 52 U.S.C. § 30106(a)(2)(A) (2017)

*Staggered Terms:* Of the members first appointed two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1977; two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1979; and two of the members, not affiliated with the same political party, shall be appointed for terms ending on April 30, 1981.

- Reference: 52 U.S.C. § 30106(a)(2)(A) (2017)

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* A member of the Commission may serve on the Commission after the expiration of his or her term until his or her successor has taken office as a member of the Commission.

- Reference: 52 U.S.C. § 30106(a)(2)(B) (2017)

*Acting Service Rules:* The vice chairman shall act as chairman in the absence or disability of the chairman or in the event of a vacancy in such office.

- Reference: 52 U.S.C. § 30106(a)(5) (2017)

*Who is Head of Agency:* The Commission shall elect a chairman. . . from among its members (other than the Secretary of the Senate and the Clerk of the House of Representatives) for a term of one year. Any member may serve as chairman only once during any term of office to which such member is appointed. The chairman and vice chairman shall not be affiliated with the same political party.

- Reference: 52 U.S.C. § 30106(a)(5) (2017)

*OMB Review:*<sup>382</sup> Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of such estimate or request to the Congress.

- Reference: 52 U.S.C. § 30107(d)(1) (2017)
- Whenever the Commission submits any legislative recommendation, or testimony, or comments on legislation, requested by the Congress or by any Member of the Congress, to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress or to the Member requesting the same. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, testimony, or comments on legislation, to any office or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

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<sup>382</sup> The Federal Election Commission is excluded from the legal definition of “agency” and thus is exempt from OMB rule review. See Exec. Order No. 12866, 58 Fed. Reg. 51735 (1993); 44 U.S.C. § 3502(1)(B) (2017).

- Reference: 52 U.S.C. § 30107(d)(2) (2017)<sup>383</sup>

*Independent Litigating:* The Commission is authorized to appear in and defend against any action instituted under this Act, either (A) by attorneys employed in its office, or (B) by counsel whom it may appoint, on a temporary basis as may be necessary for such purpose.

- Reference: 52 U.S.C. § 30106(f)(4) (2017)

*Independent Sources of Funding:* The Federal Election Commission may charge and collect fees for attending or otherwise participating in a conference sponsored by the Commission, and notwithstanding section 3302 of Title 31, any amounts received from such fees during a fiscal year shall be credited to and merged with the amounts appropriated or otherwise made available to the Commission during the year, and shall be available for use during the year for the costs of sponsoring such conferences.

- Reference: 52 U.S.C. § 30146(a) (2017)

*Reporting Requirements:* The Commission shall . . .transmit. . .to each House of the Congress no later than June 1 of each year, a report which states in detail the activities of the Commission in carrying out its duties under this Act, and any recommendations for any legislative or other action the Commission considers appropriated.

- Reference: 52 U.S.C. § 30111(a)(9) (2017)
- Before prescribing any rule, regulation, or form under this section or any other provision of this Act, the Commission shall transmit a statement with respect to such rule, regulation, or form to the Senate and the House of Representatives, in accordance with this subsection.
  - Reference: 52 U.S.C. § 30111(d)(1) (2017)
- In prescribing such rules, regulations, and forms under this section, the Commission and the Internal Revenue Service shall consult and work together to promulgate rules, regulations, and forms which are mutually consistent. The Commission shall report to the Congress annually on the steps it has taken to comply with this subsection.
  - Reference: 52 U.S.C. § 30111(f) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* Before prescribing any rule, regulation, or form under this section or any other provision of this Act, the Commission shall transmit a statement with respect to such rule, regulation, or form to the Senate and the House of Representatives, in accordance with this subsection. If either House of the Congress does not disapprove by resolution any proposed rule or regulation submitted by the Commission under this section within 30 legislative days after the date of the receipt of such proposed rule or regulation or within 10 legislative days after the date of receipt of such proposed form, the Commission may prescribe such rule, regulation or form.

- Reference: 52 U.S.C. § 30111(d)(1)-(2) (2017)

*Adjudication:* None

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<sup>383</sup> See also, Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget “Bypass” Authorities (Feb. 20, 2001), available at <http://www.citizen.org/documents/OMBDocument1.pdf>.

## FEDERAL HOSPITAL INSURANCE TRUST FUND

*Date of Creation:* July 30, 1965<sup>384</sup>

*Statute:* 42 U.S.C. §§ 1395c-1395i-5 (2017)

*Authorizing Language:* There is hereby created on the books of the Treasury of the United States a trust fund to be known as the “Federal Hospital Insurance Trust Fund.”

- Reference: 42 U.S.C. § 1395i(a) (2017)
- With respect to the Trust Fund, there is hereby created a body to be known as the Board of Trustees of the Trust Fund.
  - Reference: 42 U.S.C. § 1395i(b) (2017)

*Commissioners/Board Members:* The Board of Trustees of the Trust Fund [shall be] composed of the Commissioner of Social Security, the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health and Human Services, all ex officio, and of two members of the public, . . . who shall be nominated by the President. . . subject to confirmation by the Senate.

- Reference: 42 U.S.C. § 1395i(b) (2017)

*Quorum Rules:* None

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* [The two PAS members] may not be from the same political party.

- Reference: 42 U.S.C. § 1395i(b) (2017)

*Fixed Terms:* [The two PAS members] shall be nominated by the President for a term of four years.

- Reference: 42 U.S.C. § 1395i(b) (2017)

*Staggered Terms:* None

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* An individual nominated and confirmed as a member of the public may serve in such position after the expiration of such member’s term until the earlier of the time at which the member’s successor takes office or the time at which a report of the Board is first issued under paragraph (2) [first of April] after the expiration of the member’s term.

- Reference: 42 U.S.C. § 1395i(b) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* The Secretary of the Treasury shall be the Managing Trustee of the Board of Trustees.

- Reference: 42 U.S.C. § 1395i(b) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The Trust Fund shall consist of such gifts and bequests as may be provided in section 401(i)(1) of this title and such amounts as may be deposited in, or appropriated to, such fund as provided in this part.

- Reference: 42 U.S.C. § 1395i(a) (2017)

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<sup>384</sup> Social Security Amendments of 1965, Pub. L. No. 89-97, 79 Stat. 286 (1965).

- It shall be the duty of the Managing Trustee to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals.
  - Reference: 42 U.S.C. § 1395i(c) (2017)
- Any obligations acquired by the Trust Fund (except public-debt obligations issued exclusively to the Trust Fund) may be sold by the Managing Trustee at the market price, and such public-debt obligations may be redeemed at par plus accrued interest. The interest on, and proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.
  - Reference: 42 U.S.C. § 1395i(d)-(e) (2017)
- The Trust Fund is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Trust Fund, for the benefit of the [Health Care Fraud and Abuse Control Account] or any activity financed through the Account.
  - Reference: 42 U.S.C. § 1395i(k)(2)(B) (2017)
- Amounts paid to the Secretary for coverage under this section [hospital insurance benefits for uninsured elderly individuals not otherwise eligible] shall be deposited in the Treasury to the credit of the Federal Hospital Insurance Trust Fund.
  - Reference: 42 U.S.C. § 1395i-2(f) 92017)
- Premiums for enrollment under this section [hospital insurance benefits for disabled individuals who have exhausted other entitlement] shall be paid to the Secretary at such times, and in such manner, as the Secretary by regulations prescribe, and shall be deposited in the Treasury to the credit of the Federal Hospital Insurance Trust Fund.
  - Reference: 42 U.S.C. § 1395i-2a (d) (2017)

*Reporting Requirements:* It shall be the duty of the Board of Trustees to . . .report to the Congress not later than the first day of April of each year on the operation and status of the Trust Fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next 2 fiscal years.

- Reference: 42 U.S.C. § 1395i(b)(2) (2017)
- It shall be the duty of the Board of Trustees to . . .report immediately to the Congress whenever the Board is of the opinion that the amount of the Trust Fund is unduly small.
  - Reference: 42 U.S.C. § 1395i(b)(3) (2017)
- Not later than January 1, the Secretary and the Attorney General shall submit jointly a report to Congress which identifies the amounts appropriated to the Trust Fund for the previous fiscal year under paragraph (2)(A) and the source of such amounts and the amounts appropriated from the Trust Fund for such year under paragraph (3) and the justification for the expenditure of such amounts.
  - Reference: 42 U.S.C. § 1395i(k)(5) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* There are authorized to be made available for expenditure out of the Trust Fund such amounts as are required to pay travel expenses, either on an actual cost or commuted basis, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 410(i) of this title) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this subchapter.

- Reference: 42 U.S.C. § 1395i(i) (2017)

## **FEDERAL HOUSING FINANCE AGENCY**

*Date of Creation:* July 30, 2008<sup>385</sup>

*Statute:* 12 U.S.C. §§ 4511-4526 (2017)

*Authorizing Language:* There is established the Federal Housing Finance Agency, which shall be an independent agency of the Federal Government.

- Reference: 12 U.S.C. § 4511(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* Subject to Title III of the Federal Housing Finance Regulatory Reform Act of 2008, the Director may appoint and fix the compensation of such officers and employees of the Agency as the Director considers necessary to carry out the functions of the Director and the Agency. Officers and employees may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of Title 5 relating to classification and General Schedule pay rates.

- Reference: 12 U.S.C. § 4515 (2017)

*Limitation on Appointment:* The Director shall be appointed. . . from among individuals who are citizens of the United States, have a demonstrated understanding of financial management or oversight, and have a demonstrated understanding of capital markets, including the mortgage securities markets and housing finance.

- Reference: 12 U.S.C. § 4512(b)(1) (2017)
- The Agency shall have a Deputy Director of the Division of Enterprise Regulation, who shall be designated. . . from among individuals who are citizens of the United States, have a demonstrated understanding of financial management or oversight, and have a demonstrated understanding of mortgage securities markets and housing finance.
  - Reference: 12 U.S.C. § 4512(c)(1) (2017)
- The Agency shall have a Deputy Director of the Division of Federal Home Loan Bank Regulation, who shall be designated. . . from among individuals who are citizens of the United States, have a demonstrated understanding of financial management or oversight, and have a demonstrated understanding of the Federal Home Loan Bank System and housing finance.
  - Reference: 12 U.S.C. § 4512(d)(1) (2017)
- The Agency shall have a Deputy Director for Housing Mission and Goals, who shall be designated. . . from among individuals who are citizens of the United States, and have a demonstrated understanding of the housing markets and housing finance.
  - Reference: 12 U.S.C. § 4512(e)(1) (2017)
- The Director and each of the Deputy Directors may not. . . have any director or indirect financial interest in any regulated entity or entity-affiliated party; hold any office, position, or employment in any regulated entity or entity-affiliated party; or have served as an executive officer or director of any regulated entity or entity-affiliated party at any

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<sup>385</sup> Housing and Economic Recovery Act of 2008, Pub. L. No. 110-289, 122 Stat. 2654 (2008). The Agency succeeded the Federal Housing Finance Board. See Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. No. 101-73, 103 Stat. 183 (1989).

time during the 3-year period preceding the date of appointment or designation of such individual as Director or Deputy Director, as applicable.

- Reference: 12 U.S.C. § 4512(g) (2017)

*Party Balancing:* N/A

*Fixed Terms:* The Director shall be appointed for a term of 5 years.

- Reference: 12 U.S.C. § 4512(b)(2) (2017)

*Staggered Terms:* N/A

*For Cause:* The Director shall be appointed for a term of 5 years, unless removed before the end of such term for cause by the President.

- Reference: 12 U.S.C. § 4512(b)(2) (2017)

*Serve President:* N/A

*Continuation until Replacement:* An individual may serve as the Director after the expiration of the term for which appointed until a successor has been appointed.

- Reference: 12 U.S.C. § 4512(b)(4) (2017)

*Acting Service Rules:* In the event of death, resignation sickness, or absence of the Director, the President shall designate either the Deputy Director of the Division of Enterprise Regulation, the Deputy Director of the Division of Federal Home Loan Bank Regulation, or the Deputy Director for Housing Mission and Goals, to serve as acting Director until the return of the Director, or the appointment of a successor.

- Reference: 12 U.S.C. § 4512(f) (2017)

*Who is Head of Agency:* There is established the position of the Director of the Agency, who shall be the head of the Agency. The Director shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 12 U.S.C. § 4512(a)-(b) (2017).

*OMB Review:* None<sup>386</sup>

*Independent Litigating:* In enforcing any provision of this chapter, any regulation or order prescribed under this chapter, or any other provision of law, rule, regulation, or order, or in any other action, suit, or proceeding to which the Director is a party or in which the Director is interested, and in the administration of conservatorships and receiverships, the Director may act in the Director's own name and through the Director's own attorneys.

- Reference: 12 U.S.C. § 4513(e)(1) (2017)

*Independent Sources of Funding:* The Director shall establish and collect from the regulated entities annual assessments in an amount not exceeding the amount sufficient to provide for reasonable costs (including administrative costs) and expenses of the Agency. . Amounts received by the Director from assessments under this section may be deposited by the Director in the manner provided in section 192 of this title for monies deposited by the Comptroller of the Currency. The amounts received by the Director from any assessment under this section shall not be construed to be Government or public funds or appropriated money. . The Director may use any amounts received by the Director from

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<sup>386</sup> The Federal Housing Finance Agency is identified as an “independent regulatory agency” and thus is exempt from OMB rule review. See Exec. Order No. 12866, 58 Fed. Reg. 51735 (1993); 44 U.S.C. § 3502(5) (2017). Financial regulatory agencies, including the FHFA, are exempt from OMB legislative communications review. 12 U.S.C. § 250 (2017). See also, Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget “Bypass” Authorities (Feb. 20, 2001), available at <http://www.citizen.org/documents/OMBDocument1.pdf>.

assessments under this section for compensation of the Director and other employees of the Agency and for all other expenses of the Director and the Agency.

- Reference: 12 U.S.C. § 4516 (2017)

*Reporting Requirements:* The Director shall annually submit a report to Congress on the results of the study conducted under subsection (a) [fees charged by enterprises for guaranteeing a mortgage], based on the aggregated data collected under subsection (a) for the subject year, regarding the amount of such fees and the criteria used by the enterprises to determine such fees.

- Reference: 12 U.S.C. § 4514a(c) (2017)
- The Director shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, not later than June 15 of each year, a written report, which shall include [a description of agency activities]
  - Reference: 12 U.S.C. § 4521(a) (2017)
- Not later than March 15 of each year, the Director shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a written report describing, for the preceding calendar year, the requests by the Director to the Attorney General for enforcement actions under subchapter III of this chapter and describing the disposition of each request.
  - Reference: 12 U.S.C. § 4521(b) (2017)

*Review Commissions:* None

*Advisory Commissions:* There is established the Federal Housing Oversight Board, which shall advise the Director with respect to overall strategies and policies in carrying out the duties of the Director under this chapter.

- Reference: 12 U.S.C. § 4513a (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **FEDERAL LABOR RELATIONS AUTHORITY**

*Date of Creation:* October 13, 1978<sup>387</sup>

*Statute:* 5 U.S.C. §§ 7101-7135 (2017)

*Authorizing Language:* None

*Commissioners/Board Members:* The Federal Labor Relations Authority is composed of three members.

- Reference: 5 U.S.C. § 7104(a) (2017)
- Members of the Authority shall be appointed by the President by and with the advice and consent of the Senate.
  - Reference: 5 U.S.C. § 7104(b) (2017)

*Quorum Rules:* None

*Agency Specific Personnel:* None

*Limitation on Appointment:* The [Federal Service Impasses] Panel [an entity within the Authority] shall be composed of. . .at least six other members who shall be appointed. .

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<sup>387</sup> Civil Service Reform Act of 1978, Pub. L. No. 95-454, 92 Stat. 1111 (1978).

.solely on the basis of fitness to perform the duties and functions involved, from among individuals who are familiar with Government operations and knowledgeable in labor-management relations.

- Reference: 5 U.S.C. § 7119(c)(2) (2017)

*Party Balancing:* Not more than 2 of [the members] may be adherents of the same political party.

- Reference: 5 U.S.C. § 7104(a) (2017)

*Fixed Terms:* A member of the Authority shall be appointed for a term of 5 years.

- Reference: 5 U.S.C. § 7104(c) (2017)
- The General Counsel of the Authority shall be appointed. . .for a term of 5 years.
  - Reference: 5 U.S.C. § 7104(f)(1) (2017)
- Each member [of the Federal Services Impasses Panel] shall be appointed for a term of 5 years.
  - Reference: 5 U.S.C. § 7119(c)(2) (2017)

*Staggered Terms:* None

*For Cause:* Members of the Authority. . .may be removed by the President only upon notice and hearing and only for inefficiency, neglect of duty, or malfeasance in office.

- Reference: 5 U.S.C. § 7104(b) (2017)

*Serve President:* None

*Continuation until Replacement:* The term of any member shall not expire before the earlier of the date on which the member's successor takes office or the last day of the Congress beginning after the date on which the member's term of office would (but for this paragraph) expire.

- Reference: 5 U.S.C. § 7104(c) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* The President shall designate one member to serve as Chairman of the Authority. The Chairman is the chief executive and administrator of the Authority.

- Reference: 5 U.S.C. § 7104(b) (2017)

*OMB Review:* None

*Independent Litigating:* Except as provided in section 518 of title 28, relating to litigation before the Supreme Court, attorneys designated by the Authority may appear for the Authority and represent the Authority in any civil action brought in connection with any function carried out by the Authority pursuant to this title or as otherwise authorized by law.

- Reference: 5 U.S.C. § 7105(h) (2017)

*Independent Sources of Funding:* None

*Reporting Requirements:* The Authority shall make an annual report to the President for transmittal to the Congress which shall include information as to the cases it has heard and the decisions it has rendered.

- Reference: 5 U.S.C. § 7104(e) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:*<sup>388</sup> The Authority shall appoint. . . administrative law judges under section 3105 of this title. . . as it may from time to time find necessary for the proper performance of its functions. . . The Authority may delegate to any administrative law judge appointed under subsection (d) of this section its authority under section 7118 of this title to determine whether any person has engaged in or is engaging in an unfair labor practice.

- Reference: 5 U.S.C. § 7105(d)-(e) (2017)
- If a petition is filed with the Authority [regarding exclusive recognition of labor organizations]. . . the Authority shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, it shall provide an opportunity for a hearing (for which a transcript shall be kept) after reasonable notice. If the Authority finds on the record of the hearing that a question of representation exists, the Authority shall supervise or conduct an election on the question by secret ballot and shall certify the results thereof.
  - Reference: 5 U.S.C. § 7111(b) (2017)
- Any member of the Authority, the General Counsel, or the Panel, any administrative law judge appointed by the Authority under section 3105 of this title, and any employee of the Authority designated by the Authority may issue subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States and administer oaths, take or order the taking of depositions, order responses to written interrogatories, examine witnesses, and receive evidence.
  - Reference: 5 U.S.C. § 7132(a) (2017)

### **FEDERAL MARITIME COMMISSION**

*Date of Creation:* August 12, 1961<sup>389</sup>

*Statute:* 46 U.S.C. §§ 301-308 (2017)

*Authorizing Language:* The Federal Maritime Commission is an independent establishment of the United States Government.

- Reference: 46 U.S.C. § 301(a) (2017)

*Commissioners/Board Members:* The Commission is composed of 5 Commissioners, appointed by the President by and with the advice and the consent of the Senate.

- Reference: 46 U.S.C. § 301(b)(1) (2017)

*Quorum Rules:* A vacancy or vacancies in the memberships of the Federal Maritime Commission do not impair the power of the Commission to execute its functions. The affirmative vote of a majority of the Commissioners serving on the Commission is required to dispose of any matter before the Commission.

- Reference: 46 U.S.C. § 302 (2017)

*Agency Specific Personnel:* None

*Limitation on Appointment:* A Commissioner may not have a pecuniary interest in, hold an official relation to, or own stocks or bonds of any entity the Commission regulates under chapter 401 of this title.

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<sup>388</sup> Employs administrative law judges. Association of Administrative Law Judges. “Agencies Employing Administrative Law Judges,” <http://www.aalj.org/agencies-employing-administrative-law-judges> (accessed October 30, 2017).

<sup>389</sup> Reorganization Plan No. 7 of 1961.

- Reference: 46 U.S.C. § 301(b)(4)(A) (2017)

*Party Balancing:* Not more than 3 Commissioners may be appointed from the same political party.

- Reference: 46 U.S.C. § 301(b)(1) (2017)

*Fixed Terms:* The term of each Commissioner is 5 years. . .No individual may serve more than 2 terms.

- Reference: 46 U.S.C. § 301(b)(2) (2017)

*Staggered Terms:* None

*For Cause:* The President may remove a Commissioner for inefficiency, neglect of duty, or malfeasance in office.

- Reference: 46 U.S.C. § 301(b)(5) (2017)

*Serve President:* None

*Continuation until Replacement:* When the term of a Commissioner ends, the Commissioner may continue to serve until a successor is appointed and qualified, but for a period not to exceed one year.

- Reference: 46 U.S.C. § 301(b)(2) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* The President shall designate one of the Commissioners as Chairman. The Chairman is the chief executive and administrative officer of the Commission.

- Reference: 46 U.S.C. § 301(c) (2017)

*OMB Review:* None<sup>390</sup>

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* Not later than April 1 of each year, the Federal Maritime Commission shall submit a report to Congress. The report shall include the results of its investigations, a summary of its transactions, the purposes for which all of its expenditures were made, and any recommendations for legislation.

- Reference: 46 U.S.C. § 306 (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:*<sup>391</sup> None

## **FEDERAL MEDIATION AND CONCILIATION SERVICE**

*Date of Creation:* June 23, 1947<sup>392</sup>

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<sup>390</sup> The Federal Maritime Commission is identified as an “independent regulatory agency” and thus is exempt from OMB rule review. See Exec. Order No. 12866, 58 Fed. Reg. 51735 (1993); 44 U.S.C. § 3502(5) (2017). See also, Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget “Bypass” Authorities (Feb. 20, 2001), *available at* <http://www.citizen.org/documents/OMBDocument1.pdf> (suggesting the FMC has informal legislative bypass authority).

<sup>391</sup> Employ administrative law judges. Association of Administrative Law Judges. “Agencies Employing Administrative Law Judges,” <http://www.aalj.org/agencies-employing-administrative-law-judges> (accessed October 30, 2017).

<sup>392</sup> Labor Management Relations Act, 1947, Pub. L. No. 101, 61 Stat. 136 (1947).

*Statute:* 29 U.S.C. §§ 171-183 (2017)

*Authorizing Language:* There is created an independent agency to be known as the Federal Mediation and Conciliation Service.

- Reference: 29 U.S.C. § 172(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* The Director is authorized. . .without regard to the provisions of civil service laws, appoint such conciliators and mediators as may be necessary to carry out the functions of the Service.

- Reference: 29 U.S.C. § 172(b) (2017)

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The Service shall be under the direction of a Federal Mediation and Conciliation Director, who shall be appointed by the President by and with the advice and consent of the Senate.

- Reference: 29 U.S.C. § 172(a) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* It shall be the duty of the [National Labor-Management] panel, at the request of the Director, to advise in the avoidance of industrial controversies and the manner in which mediation and voluntary adjustment shall be administered, particularly with reference to controversies affecting the general welfare of the country.

- Reference: 29 U.S.C. § 175(b) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION**

*Date of Creation:* November 9, 1977<sup>393</sup>

*Statute:* 30 U.S.C. §§ 801-966 (2017)

*Authorizing Language:* The Federal Mine Safety and Health Review Commission is hereby established.

- Reference: 30 U.S.C. § 823(a) (2017)

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<sup>393</sup> Federal Mine Safety and Health Admendments Act of 1977, Pub. L. No. 95-164, 91 Stat. 1290 (1977).

*Commissioners/Board Members:* The Commission shall consist of five members, appointed by the President by and with the advice and consent of the Senate.

- Reference: 30 U.S.C. § 823(a) (2017)

*Quorum Rules:* The Commission is authorized to delegate to any group of three or more members any or all of the powers of the Commission, except that two members shall constitute a quorum of any group designated pursuant to this paragraph.

- Reference: 30 U.S.C. § 823(c) (2017)

*Agency Specific Personnel:* None

*Limitation on Appointment:* [The members shall be appointed] from among persons who by reason of training, education, or experience are qualified to carry out the functions of the Commission under this chapter.

- Reference: 30 U.S.C. § 823(a) (2017)

*Party Balancing:* None

*Fixed Terms:* The terms of the members of the Commission shall be six years.

- Reference: 30 U.S.C. § 823(b)(1) (2017)

*Staggered Terms:* Members of the Commission first taking office after November 9, 1977, shall serve, as designated by the President at the time of appointment, one for a term of two years, two for a term of four years, and two for a term of six years.

- Reference: 30 U.S.C. § 823(b)(1)(A) (2017)

*For Cause:* Any member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

- Reference: 30 U.S.C. § 823(b)(1) (2017)

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The President shall designate one of the members of the Commission to serve as chairman.

- Reference: 30 U.S.C. § 823(a) (2017)
- The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission.
- Reference: 30 U.S.C. § 823(b)(2) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:*<sup>394</sup> The Commission shall afford an opportunity for a hearing (in accordance with section 554 of Title 5 but without regard to subsection (a)(3) of such section) and thereafter shall issue an order, based upon findings of fact, affirming, modifying, or

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<sup>394</sup> Employs administrative law judges. Association of Administrative Law Judges. “Agencies Employing Administrative Law Judges,” <http://www.aalj.org/agencies-employing-administrative-law-judges> (accessed October 30, 2017).

vacating the Secretary's proposed order, or directing other appropriate relief [relating to claim that miner, applicant for employment, or representatives of miners believes he has been discharged, interfered with, or otherwise discriminated against by any person in violation of this subsection]. . . If Secretary, upon investigation, determines that the provisions of this subsection have not been violated, the complainant shall have the right. . . to file an action in his own behalf before the Commission. . . The Commission shall afford an opportunity for a hearing (in accordance with section 554 of Title 5 but without regard to subsection (a)(3) of such section).

- Reference: 30 U.S.C. § 815(c) (2017)
- If . . . an operator of a coal or other mine notifies the Secretary that he intends to contest the issuance or modification of an order issued under section 814 of this title or citation or modification of proposed assessment of a penalty issued under subsection (a) or (b) of this section, or the reasonableness of the length of abatement time fixed in a citation or modification thereof issued under section 814 of this title, or any miner or representative of miners notifies the Secretary of an intention to contest the issuance, modification, or termination of any order issued under section 814 of this title, or the reasonableness of the length of time set for abatement by a citation or modification thereof issued under section 814 of this title, the Secretary shall immediately advise the Commission of such notification, and the Commission shall afford an opportunity for hearing (in accordance with section 554 of Title 5 but without regard to subsection (a)(3) of such section).
  - Reference: 30 U.S.C. § 815(d) (2017)
- Any operator notified of an order under this section [procedures to counteract dangerous conditions] or any representative of miners notified of the issuance, modification or termination of such an order may apply to the Commission within 30 days of such notification for reinstatement, modification, or vacation of such order. The Commission shall forthwith afford an opportunity for a hearing (in accordance with section 554 of Title 5 but without regard to subsection (a)(3) of such section).
  - Reference: 30 U.S.C. § 817(e) (2017)
- The Commission shall have authority to order compensation due under this section [compensation to miners] upon the filing of a complaint by a miner or his representative and after opportunity for hearing subject to section 554 of Title 5.
  - Reference: 30 U.S.C. § 821 (2017)
- Upon the effective date of the Federal Mine Safety and Health Amendments Act of 1977, the administrative law judges assigned to [various regional locations shall transfer to the Commission]. . . The Commission shall appoint such additional administrative law judges as it deems necessary to carry out the functions of the Commission.
  - Reference: 30 U.S.C. § 823(b)(2) (2017)
- In connection with hearings before the Commission or its administrative law judges under this chapter, the Commission and its administrative law judges may compel the attendance and testimony of witnesses and the production of books, papers, or documents, or objects and order testimony to be taken by deposition at any stage of the proceedings before them.
  - Reference: 30 U.S.C. § 823(e) (2017)
- In the event of a dispute or refusal describe din clause (i) [operator plan dispute resolution], the Secretary shall issue a citation which shall be immediately referred to a Commission Administrative Law Judge.

- Reference: 30 U.S.C. § 876(b)(2)(G)(ii) (2017)

**BOARD OF TRUSTEES FOR THE FEDERAL OLD-AGE AND SURVIVORS  
INSURANCE TRUST FUND AND THE FEDERAL DISABILITY INSURANCE TRUST  
FUND**

*Date of Creation:* August 1, 1956<sup>395</sup>

*Statute:* 42 U.S.C. §§ 401-434 (2017)

*Authorizing Language:* With respect to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund there is hereby created a body to be known as the Board of Trustees of the Trust Funds.

- Reference: 42 U.S.C. § 401(c) (2017)

*Commissioners/Board Members:* [The] Board of Trustees shall be composed of the Commissioner of Social Security, the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health and Human Services, all ex officio, and of two members of the public. . .who shall be nominated by the President. . .and subject to confirmation by the Senate.

- Reference: 42 U.S.C. § 401(c) (2017)

*Quorum Rules:* None

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* [The two public members] may not be from the same political party.

- Reference: 42 U.S.C. § 401(c) (2017)

*Fixed Terms:* [The two public members] shall be nominated. . .for a term of four years.

- Reference: 42 U.S.C. § 401(c) (2017)

*Staggered Terms:* None

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* An individual nominated and confirmed as a member of the public may serve in such position after the expiration of such member's term until the earlier of the time at which the member's successor takes office or the time at which a report of the Board is first issued under paragraph (2) [not later than April 1] after the expiration of the member's term.

- Reference: 42 U.S.C. § 401(c) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* The Secretary of the Treasury shall be the Managing Trustee of the Board of Trustees.

- Reference: 42 U.S.C. § 401(c) (2017)

*OMB Review:* None

*Independent Litigating:* None

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<sup>395</sup> The Federal Old-Age and Suvivors Insurance Trust Fund Board was established on August 10, 1939. Social Security Act Amendments of 1939, Pub. L. No. 379, 53 Stat. 1360 (1939). When Congress created the Federal Disability Insurance Trust Fund in 1956, the legislature replaced the original Board with a new board created to manage the two funds. Social Security Amendments of 1956, Pub. L. No. 880, 70 Stat. 807 (1956).

*Independent Sources of Funding:* It shall be the duty of the Managing Trustee to invest such portion of the Trust Funds as is not, in his judgment, required to meet current withdrawals.

- Reference: 42 U.S.C. § 401(d) (2017)
- Any obligations acquired by the Trust Funds (except public-debt obligations issued exclusively to the Trust Funds) may be sold by the Managing Trustee at the market price, and such public-debt obligations may be redeemed at par plus accrued interest. The interest on, and proceeds from the sale or redemption of, any obligations held in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall be created to and form a part of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, respectively.
  - Reference: 42 U.S.C. § 401(e)-(f) (2017)
- The Managing Trustee may accept on behalf of the United States money gifts and bequests made unconditionally to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund. . .for the benefit of any such Funds or any activity financed through such Funds.
  - Reference: 42 U.S.C. § 401(i)(1) (2017)

*Reporting Requirements:* It shall be the duty of the Board of Trustees to. . .report to the Congress not later than the first day of April of each year on the operation and status of the Trust Funds during the preceding fiscal year and on their expected operation and status during the next ensuing five fiscal years.

- Reference: 42 U.S.C. § 401(c)(2) (2017)
- It shall be the duty of the Board of Trustees to. . .report immediately to the Congress whenever the Board of Trustees is of the opinion that the amount of either of the Trust Funds is unduly small.
  - Reference: 42 U.S.C. § 401(c)(3) (2017)
- The Board of Trustees shall make a timely report to the Congress of any amounts transferred (including interest payments) under this subsection [authorizing interfund borrowing].
  - Reference: 42 U.S.C. § 401(l)(4) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **FEDERAL RETIREMENT THRIFT INVESTMENT BOARD**

*Date of Creation:* June 6, 1986<sup>396</sup>

*Statute:* 5 U.S.C. §§ 8471-8480 (2017)

*Authorizing Language:* There is established in the Executive branch of the Government a Federal Retirement Thrift Investment Board.

- Reference: 5 U.S.C. § 8472(a) (2017)

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<sup>396</sup> Pub. L. No. 99-335, 100 Stat. 514 (1986).

*Commissioners/Board Members:* The Board shall be composed of 3 members appointed by the President. . .and 2 members appointed by the President, of whom 1 shall be appointed by the President after taking into consideration the recommendation made by the Speaker of the House of Representatives in consultation with the minority leader of the House of Representatives and 1 shall be appointed by the President after taking into consideration the recommendation made by the majority leader of the Senate in consultation with the minority leader of the Senate. . .Appointments shall be made by and with the advice and consent of the Senate.

- Reference: 5 U.S.C. § 8472(b)-(c) (2017)

*Quorum Rules:* Three members of the Board shall constitute a quorum for the transaction of business.

- Reference: 5 U.S.C. § 8476(c) (2017)
- A vacancy on the Board shall not impair the authority of a quorum of the Board to perform the functions and exercise the powers of the Board.
  - Reference: 5 U.S.C. § 8476(b)(2) (2017)

*Agency Specific Personnel:* The Board shall appoint, without regard to the provisions of law governing appointments in the competitive service, an Executive Director by action agreed to by a majority of the members of the Board.

- Reference: 5 U.S.C. § 8474(a)(1) (2017)

*Limitation on Appointment:* Members of the Board shall have substantial experience, training, and expertise in the management of financial investments and pension benefit plans.

- Reference: 5 U.S.C. § 8472(d) (2017)
- The Executive Director shall have substantial experience, training, and expertise in the management of financial investments and pension benefit plans.
  - Reference: 5 U.S.C. § 8474(a)(2) (2017)

*Party Balancing:* None

*Fixed Terms:* A member of the Board shall be appointed for a term of 4 years.

- Reference: 5 U.S.C. § 8472(e)(1) (2017)

*Staggered Terms:* Of the members first appointed. . .the Chairman shall be appointed for a term of 4 years; the members appointed under subsection (b)(2) shall be appointed for terms of 3 years; and the remaining members shall be appointed for terms of 2 years.

- Reference: 5 U.S.C. § 8472(e)(1) (2017)

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* The term of any member shall not expire before the date on which the member's successor takes office.

- Reference: 5 U.S.C. § 8472(e)(3) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* [Of the 3 members appointed without consulting House and Senate], 1 shall be designated by the President as Chairman.

- Reference: 5 U.S.C. § 8472(b)(1) (2017)

*OMB Review:*<sup>397</sup> The Board shall prepare and submit to the President, and, at the same time, to the appropriate committees of Congress, an annual budget for the expenses and other items relating to the Board which shall be included as a separate item in the budget required to be transmitted to the Congress under section 1105 of title 31.

- Reference: 5 U.S.C. § 8472(i) (2017)
- The Board may submit to the President, and, at the same time, shall submit to each House of Congress, any legislative recommendations of the Board relating to any of its functions under this title or any other provision of law.
  - Reference: 5 U.S.C. § 8472(j) (2017)

*Independent Litigating:* None

*Independent Sources of Funding:* The Executive Director may require employing agencies to contribute an amount not to exceed 1 percent of the amount such agencies are required to contribute in accordance with section 8432(c) of this title to the Thrift Savings Fund. The sums credited to the Thrift Savings Fund under paragraph (1) shall be available and may be used at the discretion of the Executive Director to purchase insurance to cover potential liability of persons who serve in a fiduciary capacity with respect to the Thrift Savings Fund, without regard to whether a policy of insurance permits recourse by the insurer against the fiduciary in the case of a breach of a fiduciary obligation.

- Reference: 5 U.S.C. § 8479(b) (2017)

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* The Board shall establish an Employee Thrift Advisory Council. . .The Council shall advise the Board and the Executive Director on matters relating to investment policies for the Thrift Savings Fund and the administration of this subchapter and subchapter III of this chapter and perform such other duties as the Board may direct with respect to investment funds established in accordance with subchapter III of this chapter.

- Reference: 5 U.S.C. § 8473(e) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND**

*Date of Creation:* July 30, 1965<sup>398</sup>

*Statute:* 42 U.S.C. §§ 1395j-1395w-6 (2017)

*Authorizing Language:* There is hereby created on the books of the Treasury of the United States a trust fund to be known as the “Federal Supplementary Medical Insurance Trust Fund.”

- Reference: 42 U.S.C. § 1395t(a) (2017)

*Commissioners/Board Members:* With respect to the Trust Fund, there is hereby created a body to be known as the Board of Trustees of the Trust Fund composed of the Commissioner of Social Security, the Secretary of the Treasury, the Secretary of Labor, and the

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<sup>397</sup> See also, Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget “Bypass” Authorities (Feb. 20, 2001), *available at* <http://www.citizen.org/documents/OMBDocument1.pdf>.

<sup>398</sup> Social Security Amendments of 1965, Pub. L. No. 89-97, 79 Stat. 286 (1965).

Secretary of Health and Human Services, all ex officio, and of two members of the public. . .who shall be nominated by the President. . .and subject to confirmation by the Senate.

- Reference: 42 U.S.C. § 1395t(b) (2017)

*Quorum Rules:* None

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* [The two members of the public] may not be from the same political party.

- Reference: 42 U.S.C. § 1395t(b) (2017)

*Fixed Terms:* [The two members of the public] shall be nominated by the President for a term of four years.

- Reference: 42 U.S.C. § 1395t(b) (2017)

*Staggered Terms:* None

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* An individual nominated and confirmed as a member of the public may serve in such position after the expiration of such member's term until the earlier of the time at which the member's successor takes office or the time at which a report of the Board is first issued under paragraph (2) after the expiration of the member's term [April 1].

- Reference: 42 U.S.C. § 1395t(b) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* The Secretary of the Treasury shall be the Managing Trustee of the Board of Trustees.

- Reference: 42 U.S.C. § 1395t(b) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 401(i)(1) of this title, such amounts as may be deposited in, or appropriated to, such fund as provide din this part or section 9008(c) of the Patient Protection and Affordable Care Act of 2009, and such amounts as may deposited in, or appropriated to, the Medicare Prescription Drug Account established by section 1395w-116 of this title or the Transitional Assistance Account established by section 1395w-141(k)(1) of this title.

- Reference: 42 U.S.C. § 1395t(a) (2017)
- It shall be the duty of the Managing Trustee to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. . .The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.
  - Reference: 42 U.S.C. § 1395t(c); (e) (2017)

*Reporting Requirements:* It shall be the duty of the Board of Trustees to. . .report to the Congress not later than the first day of April of each year on the operation and status of the Trust Fund during the preceding fiscal year and on its expected operation and status during the current fiscal year and the next 2 fiscal years.

- Reference: 42 U.S.C. § 1395t(b)(2) (2017)

- It shall be the duty of the Board of Trustees to . . .report immediately to the Congress whenever the Board is of the opinion that the amount of the Trust Fund is unduly small.
  - Reference: 42 U.S.C. § 1395t(b)(3) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **FEDERAL TRADE COMMISSION**

*Date of Creation:* September 26, 1914<sup>399</sup>

*Statute:* 15 U.S.C. §§ 41-58

*Authorizing Language:* A commission is created and established, to be known as the Federal Trade Commission.

- Reference: 15 U.S.C. § 41 (2017)

*Commissioners/Board Members:* [The Commission] shall be composed of five Commissioners, who shall be appointed by the president, by and with the advice and consent of the Senate.

- Reference: 15 U.S.C. § 41 (2017)

*Quorum Rules:* None

*Agency Specific Personnel:* With the exception of the secretary, a clerk to each Commissioner, the attorneys, and such special experts and examiners as the Commission may from time to time find necessary for the conduct of its work, all employees of the Commission shall be part of the classified civil service and shall enter the service under such rules and regulations as may be prescribed by the Commission and by the Director of Office of Personnel Management.

- Reference: 15 U.S.C. § 42 (2017)

*Limitation on Appointment:* None

*Party Balancing:* Not more than three of the Commissioners shall be members of the same political party.

- Reference: 15 U.S.C. § 41 (2017)

*Fixed Terms:* [The Commissioners] shall be appointed for terms of seven years.

- Reference: 15 U.S.C. § 41 (2017)

*Staggered Terms:* The first Commissioners appointed shall continue in office for terms of three, four, five, six, and seven years, respectively, from September 26, 1914, the term of each to be designated by the President.

- Reference: 15 U.S.C. § 41 (2017)

*For Cause:* Any Commissioner may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

- Reference: 15 U.S.C. § 41 (2017)

*Serve President:* None

*Continuation until Replacement:* Upon the expiration of his term of office a Commissioner shall continue to serve until his successor shall have been appointed and shall have qualified.

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<sup>399</sup> Pub. L. No. 203, 38 Stat. 717 (1914).

- Reference: 15 U.S.C. § 41 (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* The President shall choose a chairman from the Commission’s membership.

- Reference: 15 U.S.C. § 41 (2017)

*OMB Review:* None<sup>400</sup>

*Independent Litigating:* Whenever the Commission has reason to believe that any person, partnership, or corporation is engaged in, or is about to engage in, the dissemination or the causing of the dissemination of any advertisement in violation of section 52 of this title and that the enjoining thereof pending the issuance of a complaint issued by the Commission under section 45 of this title, and until such complaint is dismissed by the Commission or set aside by the court on review, or the order of the Commission to cease and desist made thereon has become final within the meaning of section 45 of this title, would be to the interest of the public, the Commission by any of its attorneys designated by it for such purpose may bring suit in a district court of the United States or in the United States court of any Territory, to enjoin the dissemination or the causing of the dissemination of such advertisement.

- Reference: 15 U.S.C. § 53(a) (2017)
- Whenever the Commission has reason to believe that any person, partnership, or corporation is violating, or is about to violate, any provision of law enforced by the Federal Trade Commission, and that the enjoining thereof pending the issuance of a complaint by the Commission and until such complaint is dismissed by the Commission or set aside by the court on review, or until the order of the Commission made thereon has become final, would be in the interest of the public the Commission by any of its attorneys designated by it for such purpose may bring suit in a district court of the United States to enjoin any such act or practice.
  - Reference: 15 U.S.C. § 53(b) (2017)
- Except as otherwise provided in paragraph (2) or (3), if before commencing, defending, or intervening in, any civil action involving this subchapter (including an action to collect a civil penalty) which the Commission, or the Attorney General on behalf of the Commission, is authorized to commence, defend, or intervene in, the Commission gives written notification and undertakes to consult with the Attorney General with respect to such action and the Attorney General fails within 45 days after receipt of such notification to commence, defend, or intervene in such action, the Commission may commence, defend, or intervene in, and supervise the litigation of, such action and any appeal of such action in its own name by any of its attorneys designated by it for such purpose.
  - Reference: 15 U.S.C. § 56(a)(1) (2017)
- Except as otherwise provided in paragraph (3), in any civil action under section 53 of this title (relating to injunctive relief); under section 57b of this title (relating to consumer

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<sup>400</sup> The Federal Trade Commission is identified as an “independent regulatory agency” and thus is exempt from OMB rule review. See Exec. Order No. 12866, 58 Fed. Reg. 51735 (1993); 44 U.S.C. § 3502(5) (2017). See also, Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget “Bypass” Authorities (Feb. 20, 2001), *available at* <http://www.citizen.org/documents/OMBDocument1.pdf> (suggesting the FTC has informal legislative bypass authority).

redress); to obtain judicial review of a rule prescribed by the Commission, or a cease and desist order issued under section 45 of this title; under the second paragraph of section 49 of this title (relating to enforcement of a subpoena) and under the fourth paragraph of such section (relating to compliance with section 46 of this title); or under section 57b-2a of this title; the Commission shall have exclusive authority to commence or defend, and supervise the litigation of, such action and any appeal of such action in its own name by any of its attorneys designated by it for such purpose, unless the Commission authorizes the Attorney General to do so.

- Reference: 15 U.S.C. § 56(a)(2) (2017)
- If the Commission makes a written request to the Attorney General, within the 10-day period which begins on the date of entry of the judgment in any civil action in which the Commission represented itself pursuant to paragraph (1) or (2), to represent itself through any of its attorneys designated by it for such purpose before the Supreme Court in such action, it may do so if the Attorney General concurs with such request or the Attorney General, within the 60-day period which begins on the date of the entry of such judgment refuses to appeal or file a petition for writ of certiorari with respect to such civil action, in which case he shall give written notification to the Commission of the reasons for such refusal within such 60-day period or the Attorney General fails to take any action with respect to the Commission's request.

- Reference: 15 U.S.C. § 56(a)(3)(A) (2017)

*Independent Sources of Funding:* The Commission may accept payment or reimbursement, in cash or in kind, from a domestic or foreign law enforcement agency, or payment or reimbursement made on behalf of such agency, for expenses incurred by the Commission, its members, or employees in carrying out any activity pursuant to a statute administered by the Commission without regard to any other provision of law. Any such payments or reimbursements shall be considered a reimbursement to the appropriated funds of the Commission.

- Reference: 15 U.S.C. § 57c-2 (2017)

*Reporting Requirements:* The Commission shall also have power. . .to make annual and special reports to the Congress and to submit therewith recommendations for additional legislation.

- Reference: 15 U.S.C. § 46(f) (2017)
- The Commission shall submit such advance notice of proposed rulemaking [on unfair or deceptive acts or practices] to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives.
- Reference: 15 U.S.C. § 57a(b)(2)(B) (2017)
- The Commission shall, 30 days before the public of a notice of proposed rulemaking pursuant to paragraph (1)(A), submit such notice to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives.
- Reference: 15 U.S.C. § 57a(b)(2)(C) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* Nothing in this section (other than the provisions of clause (c) and clause (d)) shall apply to the business of insurance, except that the Commission shall

have authority to conduct studies and prepare reports relating to the business of insurance. The Commission may exercise such authority only upon receiving a request which is agreed to by a majority of the members of the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Energy and Commerce of the House of Representatives. The authority to conduct any such study shall expire at the end of the Congress during which the request for such study was made.

- Reference: 15 U.S.C. § 46 (2017)
- Except as otherwise provided in paragraph (2) or (3), if before commencing, defending, or intervening in, any civil action involving this subchapter (including an action to collect a civil penalty) which the Commission, or the Attorney General on behalf of the Commission, is authorized to commence, defend, or intervene in, the Commission gives written notification and undertakes to consult with the Attorney General with respect to such action and the Attorney General fails within 45 days after receipt of such notification to commence, defend, or intervene in such action, the Commission may commence, defend, or intervene in, and supervise the litigation of, such action and any appeal of such action in its own name by any of its attorneys designated by it for such purpose.
  - Reference: 15 U.S.C. § 56(a) (2017)
- If the Commission makes a written request to the Attorney General, within the 10-day period which begins on the date of entry of the judgment in any civil action in which the Commission represented itself pursuant to paragraph (1) or (2), to represent itself through any of its attorneys designated by it for such purpose before the Supreme Court in such action, it may do so if the Attorney General concurs with such request or the Attorney General, within the 60-day period which begins on the date of the entry of such judgment refuses to appeal or file a petition for writ of certiorari with respect to such civil action, in which case he shall give written notification to the Commission of the reasons for such refusal within such 60-day period or the Attorney General fails to take any action with respect to the Commission's request.
  - Reference: 15 U.S.C. § 56(a)(3)(A) (2017)

*Legislative Veto:* None

*Adjudication:*<sup>401</sup> Whenever the Commission shall have reason to believe that any such person, partnership, or corporation has been or is using any unfair method of competition or unfair or deceptive act or practice in or affecting commerce, and if it shall appear to the Commission that a proceeding by in respect thereof would be to the interest of the public, it shall issue and serve upon such person, partnership, or corporation a complaint stating its charges in that respect and containing a notice of a hearing upon a day and at a place therein fixed at least thirty days after the service of said complaint. . . The testimony in any such proceeding shall be reduced to writing and filed in the office of the Commission. If upon such hearing the Commission shall be of the opinion that the method of competition or the act or practice in question is prohibited by this subchapter, it shall make a report in writing in which it shall state its findings as to the facts and shall issue and cause to be served on such person, partnership, or corporation an order

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<sup>401</sup> Employs administrative law judges. Association of Administrative Law Judges. "Agencies Employing Administrative Law Judges," <http://www.aalj.org/agencies-employing-administrative-law-judges> (accessed October 30, 2017).

requiring such person, partnership, or corporation to cease and desist from using such unfair method of competition or such act or practice.

- Reference: 15 U.S.C. § 45(b) (2017)
- For the purposes of this subchapter the Commission, or its duly authorized agent or agents, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any documentary evidence of any person, partnership, or corporation being investigated or proceeded against and the Commission shall have the power to require by subpoena the attendance and testimony of witnesses and the production of all such documentary evidence relating to any matter under investigation. Any member of the Commission may sign subpoenas, and members and examiners of the Commission may administer oaths and affirmations, examine witnesses, and receive evidence.
  - Reference: 15 U.S.C. § 49 (2017)
- Whenever the Commission has reason to believe that any person may be in possession, custody, or control of any documentary material or tangible things, or may have any information, relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 45(a)(1) of this title), or to antitrust violations, the Commission may, before the institution of any proceedings under this subchapter, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to produce such documentary material for inspection and copying or reproduction, to submit such tangible things, to file written reports or answers to questions, to give oral testimony concerning documentary material or other information or to furnish any combination of such material, answers, or testimony [on the record].
  - Reference: 15 U.S.C. § 57b-1(c) (2017)

### **GENERAL SERVICES ADMINISTRATION**

*Date of Creation:* June 30, 1949<sup>402</sup>

*Statute:* 40 U.S.C. §§ 301-323 (2017)

*Authorizing Language:* The General Services Administration is an agency in the executive branch of the Federal Government.

- Reference: 40 U.S.C. § 301 (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* The Deputy Administrator is Acting Administrator of General Services during the absence or disability of the Administrator and, unless the President designates another officer of the Federal Government, when the office of Administrator is vacant.

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<sup>402</sup> Federal Property and Administrative Services Act of 1949, Pub. L. No. 152, 63 Stat. 377 (1949).

- Reference: 40 U.S.C. § 302(b) (2017)

*Who is Head of Agency:* The Administrator of General Services is the head of the General Services Administration. The Administrator is appointed by the President with the advice and consent of the Senate.

- Reference: 40 U.S.C. § 302(a) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The Administrator shall charge the producer or vendor a fee for the tests [of materials].

- Reference: 40 U.S.C. § 313(c)(1) (2017)
- The Acquisition Services Fund is a special fund in the Treasury. The Fund is composed of amounts authorized to be transferred to the Fund or otherwise made available to the Fund. The Fund shall be credited with all reimbursement, advances, and refunds or recoveries relating to personal property or services produced through the Fund, including the net proceeds of disposal of surplus personal property and receipts from carriers and other loss of, or damage to, personal property and receipts from agencies charged fees pursuant to rates established by the Administrator. . . Fees collected by the Administrator under section 313 of this title may be deposited in the Fund to be used for the purposes of the Fund. The Fund is available for use by or under the director and control of the Administrator for [procurement and paying direct and indirect costs of procurement].
  - Reference: 40 U.S.C. § 321 (2017)
- There is in the Treasury a Federal Citizen Services Fund, General Services Administration, for the purpose of disseminating Federal Government information to the public and for other related purposes. Money shall be deposited into the Fund from appropriations from the Treasury for Federal Citizen Services activities, user fees from the public, reimbursements from other federal agencies for costs of distributing publications, and any other income incident to Center activities. Money deposited into the Fund is available for expenditure for Center activities in amounts specified in appropriation laws. . . Any unobligated balances at the end of a fiscal year remain in the Fund and are available for authorization in appropriation laws for subsequent fiscal years. The Center may accept and deposit to this account gifts for purposes of defraying the costs of printing, publishing, and distributing consumer information and educational materials and undertaking other consumer information activities. In addition to amounts appropriated or otherwise made available, the Center may expend the gifts for these purposes and any balance remains available for expenditure.
  - Reference: 40 U.S.C. § 323 (2017)

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **Office of Acquisition Policy**

*Date of Creation:* Unknown

*Statute:* Not established in U.S. Code

## **HARRY S. TRUMAN SCHOLARSHIP FOUNDATION**

*Date of Creation:* January 4, 1975<sup>403</sup>

*Statute:* 20 U.S.C. §§ 2001-2013 (2017)

*Authorizing Language:* There is established, as an independent establishment of the executive branch of the United States Government, the Harry S. Truman Scholarship Foundation.

- Reference: 20 U.S.C. § 2004(a) (2017)

*Commissioners/Board Members:* The Foundation shall be subject to the supervision and direction of a Board of Trustees. The Board shall be composed of thirteen members, as follows: two Members of the Senate. . .to be appointed by the President of the Senate; two Members of the House of Representatives. . .to be appointed by the Speaker; eight members. . .to be appointed by the President with the advice and consent of the Senate. . .; the Secretary of Education or his designate, who shall serve ex officio as a member of the Board but shall not be eligible to serve as Chairman.

- Reference: 20 U.S.C. § 2004(b)(1)

*Quorum Rules:* None

*Agency Specific Personnel:* None

*Limitation on Appointment:* [Of the eight PAS members], one shall be a chief executive officer of a State, one a chief executive officer of a city or county, one a member of a Federal court, one a member of a State court, one a person active in postsecondary education, and three representatives of the general public.

- Reference: 20 U.S.C. § 2004(b)(1) (2017)

*Party Balancing:* [The] two Members of the same [shall be] one from each political party. . .[The] two Members of the House of Representatives [shall be] one from each political party. . .not more than four of [the eight PAS members] shall be of the same political party.

- Reference: 20 U.S.C. § 2004(b)(1) (2017)

*Fixed Terms:* The terms of office of each member of the Board shall be six years.

- Reference: 20 U.S.C. § 2004(c) (2017)

*Staggered Terms:* The members first taking office shall serve as designated by the President, four for terms of two years, five for terms of four years, and four for terms of six years.

- Reference: 20 U.S.C. § 2004(c) (2017)

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* None

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* There is established in the Treasury of the United States a trust fund to be known as the Harry S. Truman Memorial Scholarship Trust Fund. The fund shall consist of amounts appropriated to it by section 2013 of this title. . .The interest on,

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<sup>403</sup> Harry S. Truman Memorial Scholarship Act, Pub. L. No. 93-642, 88 Stat. 2276 (1975).

and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

- Reference: 20 U.S.C. § 2009 (2017)
- The Secretary [of the Treasury] is authorized to pay to the Foundation from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the purposes of this chapter.
  - Reference: 20 U.S.C. § 2010(a) (2017)
- In order to carry out the provisions of this chapter, the Foundation is authorized to . . . receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation, and to use, sell or otherwise dispose of such property for the purpose of carrying out its functions.
  - Reference: 20 U.S.C. § 2012(a)(4) (2017)

*Reporting Requirements:* The Foundation shall submit to the President and to the Congress an annual report of its operations under this chapter.

- Reference: 20 U.S.C. § 2012(b) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **INTER-AMERICAN FOUNDATION**

*Date of Creation:* December 30, 1969<sup>404</sup>

*Statute:* 22 U.S.C. § 290f (2017)

*Authorizing Language:* There is created as an agency of the United States of America a body corporate to be known as the Inter-American Foundation.

- Reference: 22 U.S.C. § 290f(a) (2017)

*Commissioners/Board Members:* The management of the Foundation shall be vested in a board of directors composed of nine members appointed by the President, by and with the advice and consent of the Senate.

- Reference: 22 U.S.C. § 290f(g) (2017)

*Quorum Rules:* A majority of the Board shall be required as a quorum.

- Reference: 22 U.S.C. § 290f(j) (2017)

*Agency Specific Personnel:* None

*Limitation on Appointment:* Six members of the Board shall be appointed from private life.

Three members of the Board shall be appointed from among the following: officers or employees of agencies of the United States concerned with inter-American affairs, the United States Executive Director of the Inter-American Development Bank, or the Alternate Executive Director of the Inter-American Development Bank.

- Reference: 22 U.S.C. § 290f(g) (2017)
- All individuals appointed to the Board shall possess an understanding of and sensitivity to community level development processes.
  - Reference: 22 U.S.C. § 290f(g) (2017)

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<sup>404</sup> Foreign Assistance Act of 1969, Pub. L. No. 91-175, 83 Stat. 805 (1969).

*Party Balancing:* No more than 5 members of the Board may be members of any one political party.

- Reference: 22 U.S.C. § 290f(g) (2017)

*Fixed Terms:* Members of the Board shall be appointed for terms of six years.

- Reference: 22 U.S.C. § 290f(g) (2017)

*Staggered Terms:* Of the members first appointed two shall be appointed for terms of two years and two shall be appointed for terms of four years, as designated by the President at the time of their appointment.

- Reference: 22 U.S.C. § 290f(g) (2017)

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* Upon the expiration of his term of office a member shall continue to serve until his successor is appointed and shall have qualified.

- Reference: 22 U.S.C. § 290f(g) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* One [of the members the President] shall designate to serve as Chairman of the Board.

- Reference: 22 U.S.C. § 290f(g) (2017)

*OMB Review:* None

*Independent Litigating:* The Foundation, as a corporation. . .may sue and be sued, complain, and defend, in its corporate name in any court of competent jurisdiction.

- Reference: 22 U.S.C. § 290f(e)(10) (2017)

*Independent Sources of Funding:* The Foundation, as a corporation. . .shall determine and prescribe the manner in which its obligations shall be incurred and its expenses, including expenses for representation (not to exceed \$10,000 in any fiscal year), allowed and paid.

- Reference: 22 U.S.C. § 290f(e)(4) (2017)
- The Foundation, as a corporation. . .may acquire by purchase, devise, bequest, or gift, or otherwise lease, hold, and improve, such real and personal property as it finds to be necessary to its purposes, whether within or without the United States, and in any manner dispose of all such real and personal property held by it and use as general funds all receipts arising from the disposition of such property.
  - Reference: 22 U.S.C. § 290f(e)(6) (2017)
- The Foundation, as a corporation. . .may accept money, funds, property, and services of every kind by gift, devise, bequest, grant, or otherwise, and make advances, grants, and loans to any individual, corporation, or other body of persons, whether within or without the United States of America, or to any government or governmental agency, domestic or foreign, when deemed advisable by the Foundation in furtherance of its purposes.
  - Reference: 22 U.S.C. § 290f(e)(9) (2017)

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* In order to further the purposes of the Foundation there shall be established a Council to be composed of such number of individuals as may be selected by the Board from among individuals knowledgeable concerning developmental activities in the Western Hemisphere. The Board shall, from time to time, consult with the Council concerning the objectives of the Foundation.

- Reference: 22 U.S.C. § 260f(m) (2017)

*Action Require Outside Approval:* None  
*Legislative Veto:* None  
*Adjudication:* None

## **JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION**

*Date of Creation:* October 30, 1986<sup>405</sup>

*Statute:* 20 U.S.C. §§ 4501-4517

*Authorizing Language:* In order to commemorate the bicentennial of the Constitution, there is established, as an independent establishment of the executive branch, the James Madison Memorial Fellowship Foundation.

- Reference: 20 U.S.C. § 4502(a) (2017)

*Commissioners/Board Members:* The Foundation shall be subject to the supervision and direction of a Board of Trustees. The Board shall be composed of thirteen members, as follows: Two Members of the Senate, of different political parties, shall be appointed by the President upon the recommendation of the President pro tempore of the Senate, in consultation with the Majority Leader and Minority Leader of the Senate; Two members of the House of Representatives, of different political parties, shall be appointed by the President upon the recommendation of the Speaker of the House, in consultation with the Minority Leader of the House of Representatives; Two members of the Federal judiciary shall be appointed by the President upon the recommendation of the Chief Justice of the United States; Six members. . . shall be appointed by the President with the advice and consent of the Senate. . . The Secretary of Education or his designate shall serve ex officio as a member of the Board, but shall not be eligible to serve as Chairman.

- Reference: 20 U.S.C. § 4502(b)(1) (2017)

*Quorum Rules:* None

*Agency Specific Personnel:* The Foundation is authorized to appoint and fix the compensation of such personnel as may be necessary to carry out this chapter, without regard to the provisions of Title 5 governing appointments in the competitive service, but at General Schedule pay rates not in excess of the maximum rate for grade GS-15 of the General Schedule under 5332 of that title.

- Reference: 20 U.S.C. § 4513(a)(1) (2017)

*Limitation on Appointment:* [Of the PAS members] one. . . shall be a chief executive of a State, two shall be members of the general public, and three shall be members of the academic community, appointed upon the recommendation of the Librarian of Congress.

- Reference: 20 U.S.C. § 4502(b)(1)(D) (2017)

*Party Balancing:* Not more than three [of the PAS members] shall be of the same political party.

- Reference: 20 U.S.C. § 4502(b)(1)(D) (2017)

*Fixed Terms:* The term of office of each member of the Board shall be six years.

- Reference: 20 U.S.C. § 4502(b)(2) (2017)

*Staggered Terms:* The members first taking office shall serve as designated by the President, four for terms of two years, five for terms of four years, and four for terms of six years.

- Reference: 20 U.S.C. § 4502(b)(2)(A) (2017)

*For Cause:* None

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<sup>405</sup> James Madison Memorial Fellowship Act, Pub. L. No. 99-591, 100 Stat. 3341 (1986).

*Serve President:* None

*Continuation until Replacement:* A member of the Board whose term has expired may continue to serve until the earlier of the date on which a successor has taken office or the date on which the Congress adjourns sine die to end the session of Congress that commences after the date on which the member's term expired.

- Reference: 20 U.S.C. § 4502(b)(3) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* Members of the Board shall elect from the members of the Board a Chairman and such other officers as may be necessary to carry out the duties of the Foundation.

- Reference: 20 U.S.C. § 4502(c) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* There shall be established in the Treasury of the United States a trust fund consisting of appropriations and amounts contributed by the Foundation for the Commemoration of the Constitution and other private sources to be available, in accordance with the provisions of this chapter, to carry out the provisions of this chapter. . . The interest on, and the proceeds from, the sale or redemption of any obligations held in the fund shall be credited to and form a part of the fund.

- Reference: 20 U.S.C. § 4510 (2017)
- The Secretary of the Treasury is authorized to pay to the Foundation from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the provisions of this chapter.
  - Reference: 20 U.S.C. § 4511(a) (2017)
- The Foundation is authorized. . .to receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions.
  - Reference: 20 U.S.C. § 4513(a)(4) (2017)

*Reporting Requirements:* The Foundation shall submit to. . .the Congress an annual report of its operations under this chapter.

- Reference: 20 U.S.C. § 4513(b) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **LEGAL SERVICES CORPORATION**

*Date of Creation:* July 25, 1974<sup>406</sup>

*Statute:* 42 U.S.C. §§ 2996-2996l (2017)

*Authorizing Language:* There is established in the District of Columbia a private membership nonprofit corporation, which shall be known as the Legal Services Corporation, for the

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<sup>406</sup> Legal Services Corporation Act of 1974, Pub. L. No. 93-355, 88 Stat. 378 (1974).

purpose of providing financial support for legal assistance in noncriminal proceedings or matters to persons financially unable to afford legal assistance.

- Reference: 42 U.S.C. § 2996b(a) (2017)

*Commissioners/Board Members:* The Corporation shall have a Board of Directors consisting of eleven voting members appointed by the President, by and with the advice and consent of the Senate.

- Reference: 42 U.S.C. § 299c(a) (2017)

*Quorum Rules:* None

*Agency Specific Personnel:* Except as otherwise specifically provided in this subchapter, officers and employees of the Corporation shall not be considered officers or employees, and the Corporation shall not be considered a department, agency, or instrumentality, of the Federal Government. . . Officers and employees of the Corporation shall be considered officers and employees of the Federal Government for purposes of the following provisions of Title 5: [compensation for work injuries; retirement; life insurance; health insurance].

- Reference: 42 U.S.C. § 2996d(e)-(f) (2017)

*Limitation on Appointment:* A majority [of the members] shall be members of the bar of the highest court of any State, and none shall be a full-time employee of the United States.

- Reference: 42 U.S.C. § 299c(a) (2017)
- No member shall be reappointed to more than two consecutive terms immediately following such member's initial term.
  - Reference: 42 U.S.C. § 299c(b) (2017)

*Party Balancing:* No more than six of [the members] shall be of the same political party.

- Reference: 42 U.S.C. § 299c(a) (2017)

*Fixed Terms:* The term of office of each member of the Board shall be three years.

- Reference: 42 U.S.C. § 299c(b) (2017)

*Staggered Terms:* Five of the members first appointed, as designated by the President at the time of appointment, shall serve for a term of two years.

- Reference: 42 U.S.C. § 299c(b) (2017)

*For Cause:* A member of the Board may be removed by a vote of seven members for malfeasance in office or for persistent neglect of or inability to discharge duties, or for offenses involving moral turpitude, and for no other cause.

- Reference: 42 U.S.C. § 299c(e) (2017)

*Serve President:* None

*Continuation until Replacement:* Each member of the Board shall continue to serve until the successor to such member has been appointed and qualified.

- Reference: 42 U.S.C. § 299c(b) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* The President shall select from among the voting members of the Board a chairman, who shall serve for a term of three years. Thereafter the Board shall annually elect a chairman from among its members.

- Reference: 42 U.S.C. § 299c(d) (2017)

*OMB Review:* None<sup>407</sup>

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<sup>407</sup> But see Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget "Bypass" Authorities (Feb. 20, 2001), *available at*

*Independent Litigating:* The Corporation shall not itself participate in litigation unless the Corporation or a recipient of the Corporation is a party, or a recipient is representing an eligible client in litigation in which the interpretation of this subchapter or a regulation promulgated under this subchapter is an issue, and shall not participate on behalf of any client other than itself.

- Reference: 42 U.S.C. § 2996e(c)(1) (2017)

*Independent Sources of Funding:* The Corporation is authorized. . .to accept in the name of the Corporation, and employ or dispose of in furtherance of the purposes of this subchapter, any money, or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise.

- Reference: 42 U.S.C. § 2996e(a)(2) (2017)
- Such reports [pertinent to the evaluation, inspection, or monitoring of those receiving financial assistance] shall be available for public inspection during regular business hours and, copies shall be furnished, upon request, to interested parties upon payment of such reasonable fees as the Corporation may establish.
- Reference: 42 U.S.C. § 2996g(d) (2017)

*Reporting Requirements:* The Corporation shall publish an annual report which shall be filed by the Corporation with. . .the Congress.

- Reference: 42 U.S.C. § 2996g(c) (2017)

*Review Commissions:* None

*Advisory Commissions:* Within six months after the first meeting of the Board, the Board shall request the Governor of each state to appoint a nine-member advisory council for such State. . .The advisory council shall be charged with notifying the Corporation of any apparent violation of the provisions of this subchapter and applicable rules, regulations, and guidelines promulgated pursuant to this subchapter.

- Reference: 42 U.S.C. § 299c(f) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **MARINE MAMMAL COMMISSION**

*Date of Creation:* October 21, 1972<sup>408</sup>

*Statute:* 16 U.S.C. §§ 1361-1423h (2017)

*Authorizing Language:* There is hereby established the Marine Mammal Commission.

- Reference: 16 U.S.C. § 1401(a) (2017)

*Commissioners/Board Members:* Effective September 1, 1982, the Commission shall be composed of three members who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 16 U.S.C. § 1401(b)(1) (2017)

*Quorum Rules:* None

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<http://www.citizen.org/documents/OMBDocument1.pdf> (suggesting that the Legal Services Corporation has a statutorily-based budgetary bypass provision and an informal legislative bypass).

<sup>408</sup> Marine Mammal Protection Act of 1972, Pub. L. No. 92-522, 86 Stat. 1027 (1972).

*Agency Specific Personnel:* The Commission shall have an Executive director, who shall be appointed without regard to the provisions of Title 5 governing appointments in the competitive service.

- Reference: 16 U.S.C. § 1401(e) (2017)

*Limitation on Appointment:* The President shall make his selection from a list of individuals knowledgeable in the fields of marine ecology and resource management, and who are not in a position to profit from the taking of marine mammals. Such list shall be submitted to him by the Chairman of the Council on Environmental Quality and unanimously agreed to by that Chairman, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, and the Chairman of the National Academy of Sciences. No member of the Commission may, during his period of service on the Commission, hold any other position as an officer or employee of the United States except as a retired officer or retired civilian employee of the United States.

- Reference: 16 U.S.C. § 1401(b)(1) (2017)
- No member is eligible for reappointment, except that any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed. . . is eligible for reappointment for one full term.
- Reference: 16 U.S.C. § 1401(b)(2) (2017)

*Party Balancing:* None

*Fixed Terms:* The term of office for each member shall be three years.

- Reference: 16 U.S.C. § 1401(b)(2) (2017)

*Staggered Terms:* Of the members initially appointed to the Commission, the term of one member shall be for one year, the term of one member shall be for two years, and the term of one member shall be for three years.

- Reference: 16 U.S.C. § 1401(b)(2) (2017)

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* A member may serve after the expiration of his term until his successor has taken office.

- Reference: 16 U.S.C. § 1401(b)(2) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* The President shall designate a Chairman of the Commission from among its members.

- Reference: 16 U.S.C. § 1401(c) (2017)

*OMB Review:* None<sup>409</sup>

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* Any recommendations made by the Committee [of Scientific Advisors on Marine Mammals] or any of its members which are not adopted by the Commission shall be transmitted by the Commission to . . . the appropriate committees of Congress with a detailed explanation of the Commission's reasons for not accepting such recommendations.

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<sup>409</sup> But see, Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget "Bypass" Authorities (Feb. 20, 2001), *available at* <http://www.citizen.org/documents/OMBDocument1.pdf> (suggesting the MMC has informal legislative bypass authority).

- Reference: 16 U.S.C. § 1403(c) (2017)

*Review Commissions:* None

*Advisory Commissions:* The Commission shall establish, within ninety days after its establishment, a Committee of Scientific Advisors on Marine Mammals. . .The Commission shall consult with the Committee on all studies and recommendations which it may propose to make or has made, on research programs conducted or proposed to be conducted under the authority of this chapter, and on all applications for permits for scientific research.

- Reference: 16 U.S.C. § 1403(c) (2017)

*Action Require Outside Approval:* With the consent of the appropriate Secretary or Agency head, the Commission may also utilize the facilities or services of any Federal agency and shall take every feasible step to avoid duplication of research and to carry out the purposes of this chapter.

- Reference: 16 U.S.C. § 1405 (2017)

*Legislative Veto:* None

*Adjudication:* None

### **MERIT SYSTEMS PROTECTION BOARD**

*Date of Creation:* October 13, 1978<sup>410</sup>

*Statute:* 5 U.S.C. §§ 1201-1206 (2017)

*Authorizing Language:* None

*Commissioners/Board Members:* The Merit Systems Protection Board is composed of 3 members appointed by the President, by and with the advice and consent of the Senate.

- Reference: 5 U.S.C. § 1201 (2017)

*Quorum Rules:* None

*Agency Specific Personnel:* None

*Limitation on Appointment:* The members of the Board shall be individuals who, by demonstrated ability, background, training, or experience are especially qualified to carry out the functions of the Board.

- Reference: 5 U.S.C. § 1201 (2017)
- No member of the Board may hold another officer or position in the Government of the United States, except as otherwise provided by law or at the direction of the President.
  - Reference: 5 U.S.C. § 1201 (2017)
- Any member appointed for a 7 year term may not be reappointed to any following term.
  - Reference: 5 U.S.C. § 1202(c) (2017)

*Party Balancing:* Not more than 2 of [the members] may be adherents of the same political party.

- Reference: 5 U.S.C. § 1201 (2017)

*Fixed Terms:* The term of office of each member of the Merit Systems Protection Board is 7 years.

- Reference: 5 U.S.C. § 1202(a) (2017)

*Staggered Terms:* None

*For Cause:* Any member may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office.

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<sup>410</sup> Civil Service Reform Act of 1978, Pub. L. No. 95-454, 92 Stat. 1111 (1978).

- Reference: 5 U.S.C. § 1202(d) (2017)

*Serve President:* None

*Continuation until Replacement:* [A member] may continue to beyond the expiration of the term until a successor is appointed and has qualified, except that such member may not continue to serve for more than one year after the date on which the term of the member would otherwise expire under this section.

- Reference: 5 U.S.C. § 1202(c) (2017)

*Acting Service Rules:* During the absence or disability of the Chairman, or when the office of Chairman is vacant, the Vice Chairman shall perform the functions vested in the Chairman.

- Reference: 5 U.S.C. § 1203(b) (2017)

*Who is Head of Agency:* The President shall from time to time appoint, by and with the advice and consent of the Senate, one of the members of the Merit Systems Protection Board as the Chairman of the Board. The Chairman is the chief executive and administrative officer of the Board.

- Reference: 5 U.S.C. § 1203(a) (2017)

*OMB Review:*<sup>411</sup> The Board shall prepare and submit to the President, and at the same time, to the appropriate committees of Congress, an annual budget of the expenses and other items relating to the Board which shall, as revised, be included as a separate item in the budget required to be transmitted to the Congress under section 1105 of title 31.

- Reference: 5 U.S.C. § 1204(k) (2017)
- The Board shall submit to the President, and at the same time, to each House of the Congress, any legislative recommendations of the Board relating to any of its functions under this title.
  - Reference: 5 U.S.C. § 1204(l) (2017)
- Notwithstanding any other provision of law or any rule, regulation or policy directive, any member of the Board, or any employee of the Board designated by the Board, may transmit to the Congress on the request of any committee or subcommittee thereof, by report, testimony, or otherwise, information and views on functions, responsibilities, or other matters relating to the Board, without review, clearance, or approval by any other administrative authority.
  - Reference: 5 U.S.C. § 1205 (2017)

*Independent Litigating:* Except as provided in section 518 of title 28, relating to litigation before the Supreme Court, attorneys designated by the Chairman of the Board may appear for the Board, and represent the Board, in any civil action brought in connection with any function carried out by the Board pursuant to this title or as otherwise authorized by law.

- Reference: 5 U.S.C. § 1204(i) (2017)

*Independent Sources of Funding:* The Board may accept and use gifts and donations of property and services to carry out the duties of the Board.

- Reference: 5 U.S.C. § 1204(n) (2017)

*Reporting Requirements:* The Merit Systems Protection Board shall . . .conduct, from time to time, special studies relating to the civil service and to other merit systems in the

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<sup>411</sup> See also, Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget “Bypass” Authorities (Feb. 20, 2001), *available at* <http://www.citizen.org/documents/OMBDocument1.pdf>.

executive branch, and report to the . . . Congress as to whether the public interest in a civil service free of prohibited personnel practices is being adequately protected.

- Reference: 5 U.S.C. § 1204(a)(3) (2017)
- The Board shall submit an annual report to . . . the Congress on its activities, which shall include a description of significant actions taken by the Board to carry out its functions under this title.
  - Reference: 5 U.S.C. § 1206 (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:*<sup>412</sup> The Merit Systems Protection Board shall hear, adjudicate, or provide for the hearing or adjudication, of all matters within the jurisdiction of the Board under this title, chapter 43 of title 38, or any other law, rule, or regulation, and, subject to otherwise applicable provisions of law, take final action on any such matter.

- Reference: 5 U.S.C. § 1204(a)(1) (2017)
- Any member of the Board, any administrative law judge appointed by the Board under section 3105, and any employee of the Board designated by the Board may, with respect to any individual, issue subpoenas requiring the attendance and presentation of testimony of any such individual, and the production of documentary or other evidence from any place in the United States, any territory or possession of the United States, the Commonwealth, or the district of Columbia and order the taking of depositions from and responses to written interrogatories by, any such individual.
  - Reference: 5 U.S.C. § 1204(b)(2) (2017)

## **METROPOLITAN WASHINGTON AIRPORTS AUTHORITY**

*Date of Creation:* October 18, 1986<sup>413</sup>

*Statute:* 49 U.S.C. §§ 49101-49112 (2017)

*Authorizing Language:* The Metropolitan Washington Airports Authority shall be a public body corporate and politic.

- Reference: 49 U.S.C. § 49106(a)(1) (2017)

*Commissioners/Board Members:* The Airports Authority shall be governed by a board of directors composed of the following 17 members: 7 members appointed by the Governor of Virginia; 4 members appointed by the Mayor of the District of Columbia; 3 members appointed by the Governor of Maryland; and 3 members appointed by the President with the advice and consent of the Senate.

- Reference: 49 U.S.C. § 49106(c)(1) (2017)

*Quorum Rules:* None

*Agency Specific Personnel:* None

*Limitation on Appointment:* Any member of the board shall be eligible for reappointment for 1 additional term.

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<sup>412</sup> Employs administrative law judges. Association of Administrative Law Judges. “Agencies Employing Administrative Law Judges,” <http://www.aalj.org/agencies-employing-administrative-law-judges> (accessed October 30, 2017).

<sup>413</sup> Metropolitan Washington Airports Act of 1986, Pub. L. No. 99-500, 100 Stat. 1783 (1986).

- Reference: 49 U.S.C. § 49106(c)(3) (2017)
- A member of the board may not hold elective or appointive political office. . . and must reside within the Washington Standard Metropolitan Statistical Area, except that a member of the board appointed by the President must be a registered voter of a State other than Maryland, Virginia, or the District of Columbia.
  - Reference: 49 U.S.C. § 49106(c)(4) (2017)
- Members of the board and their immediate families may not be employed by or otherwise hold a substantial financial interest in any enterprise that has or is seeking a contract or agreement with the Airports Authority or is an aeronautical, aviation services, or airport services enterprise that otherwise has interests that can be directly affected by the Airports Authority. The official appointing a member may make an exception if the financial interest is completely disclosed when the member is appointed and the member does not participate in board decisions that directly affect the interest.
  - Reference: 49 U.S.C. § 49106(d) 92017)

*Party Balancing:* Not more than 2 of the members of the board appointed by the President may be of the same political party.

- Reference: 49 U.S.C. § 49106(c)(6)(A) (2017)

*Fixed Terms:* Members of the board shall be appointed to the board for 6 years.

- Reference: 49 U.S.C. § 49106(c)(3) (2017)

*Staggered Terms:* Of the members first appointed by the president after October 9, 1996, one shall be appointed for 4 years.

- Reference: 49 U.S.C. § 49106(c)(3) (2017)

*For Cause:* A member appointed by the President may be removed by the President for cause. A member appointed by the Mayor of the District of Columbia, the Governor of Maryland, or the Governor of Virginia may be removed or suspended from office only for cause and in accordance with the laws of jurisdiction from which the member is appointed.

- Reference: 49 U.S.C. § 49106(c)(6)(C) (2017)

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The chairman of the board shall be appointed from among the members by majority vote of the members and shall serve until replaced by majority vote of the members.

- Reference: 49 U.S.C. § 49106(c)(2) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The Airports Authority shall be authorized. . .to issue bonds from time to time in its discretion for public purposes, including paying any part of the cost of airport improvements, construction, and rehabilitation and the acquisition of real and personal property, including operating equipment for the airports. . .Bonds issued under paragraph (1)(B) of this subsection. . .may be secured by the Airports Authority's revenues generally or exclusively from the income and revenues of certain designated projects whether or not any part of the projects are financed from the proceeds of the bonds.

- Reference: 49 U.S.C. § 49106(b)(1)(B); (2)(B) (2017)
- The Airports Authority shall be authorized. . .to levy fees and other charges.

- Reference: 49 U.S.C. § 49106(b)(1)(E) (2017)

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* The Airports authority shall consult with the [National Capital Planning] Commission and the Advisory Council on Historic Preservation before undertaking any major alterations to the exterior of the main terminal at Washington Dulles International Airport and the Commission before undertaking development that would alter the skyline of Ronald Reagan Washington National Airport when viewed from the opposing shoreline of the Potomac River or from the George Washington Parkway.

- Reference: 49 U.S.C. § 49111(d)(2) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **MILLENNIUM CHALLENGE CORPORATION**

*Date of Creation:* January 23, 2004<sup>414</sup>

*Statute:* 22 U.S.C. §§ 7701-7718 (2017)

*Authorizing Language:* There is established in the executive branch a corporation to be known as the “Millennium Challenge Corporation” that shall be responsible for carrying out this chapter.

- Reference: 22 U.S.C. § 7703(a) (2017)

*Commissioners/Board Members:* There shall be in the Corporation a Board of Directors. . .the Board shall consist of the Secretary of State, the Secretary of the Treasury, the Administrator of the United States Agency for International Development, the Chief Executive Officer of the Corporation, and the United States Trade Representative, and four other individuals. . .who shall be appointed by the President, by and with the advice and consent of the Senate, of which one individual should be appointed from among a list of individuals submitted by the majority leader of the House of Representatives; one individual should be appointed from among a list of individuals submitted by the minority leader of the House of Representatives; one individual should be appointed from among a list of individuals submitted by the majority leader of the Senate; and one individual should be appointed from among a list of individuals submitted by the minority leader of the Senate.

- Reference: 22 U.S.C. § 7703(c)(3) (2017)

*Quorum Rules:* A majority of the members of the Board shall constitute a quorum, which. . .shall include at least one member of the Board described in paragraph (3)(B).

- Reference: 22 U.S.C. § 7703(c)(6) (2017)

*Agency Specific Personnel:* The Chief Executive Officer may fix the rate of basic pay of employees of the Corporation without regard to the provisions of chapter 51 of Title 5, (relating to the classification of positions), subchapter III of chapter 53 of Title 5 (relating to General Schedule pay rates), except that no employee of the Corporation may receive a rate of basic pay that exceeds the rate for level II of the Executive Schedule under section 5313 of such title.

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<sup>414</sup> Millennium Challenge Act of 2003, Pub. L. No. 108-199, 118 Stat. 3 (2004).

- Reference: 22 U.S.C. § 7716(d) (2017)

*Limitation on Appointment:* [The Four PAS members shall have] relevant international experience.

- Reference: 22 U.S.C. § 7703(c)(3)(B) (2017)

*Party Balancing:* None

*Fixed Terms:* Each member of the Board described in paragraph (3)(A) shall serve for a term that is concurrent with the term of service of the individual's position as an officer within the other Federal department or agency. Each member of the Board described in paragraph (3)(B) [PAS members] shall be appointed for a term of 3 years and may be reappointed for a term of an additional 2 years.

- Reference: 22 U.S.C. § 7703(c)(4) (2017)

*Staggered Terms:* None

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* There shall be a Chairperson of the Board. The Secretary of State shall serve as the chairperson.

- Reference: 22 U.S.C. § 7703(c)(5) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The Corporation. . . may accept cash gifts or donations of services or of property (real, personal, or mixed), tangible or intangible, for the purpose of carrying out the provisions of this chapter.

- Reference: 22 U.S.C. § 7713(a)(6) (2017)

*Reporting Requirements:* Not later than 90 days prior to the date on which the Board determines eligible countries under section 7706 of this title for a fiscal year, the Chief Executive Officer shall prepare and submit to the appropriate congressional committees a report that contains a list of all candidate countries identified under section 7705 of this title, and all countries that would be candidate countries if the countries met the requirement contained in section 7705(a)(1)(B) of this title, for the fiscal year.

- Reference: 22 U.S.C. § 7707(a)(1) (2017)
- Not later than 60 days prior to the date on which the Board determines eligible countries under section 7706 of this title for a fiscal year, the Chief Executive Officer shall prepare and submit to the appropriate congressional committees a report that contains a list of the criteria and methodology described in subsections (a) and (B) of section 7706 of this title that will be used to determine eligibility for each candidate country identified under subsection (a) of this section.
  - Reference: 22 U.S.C. § 7707(b)(1) (2017)
- Not later than 5 days after the date on which the Board determines eligible countries under section 7706 of this title for a fiscal year, the Chief Executive Officer shall prepare and submit to the appropriate congressional committees a report that contains a list of all such eligible countries, an identification of those countries on such list with respect to which the Board will seek to enter into a Compact under section 7708 of this title, and a justification for such eligibility determination and selection for Compact negotiation.
  - Reference: 22 U.S.C. § 7707(d)(1) (2017)

- Not later than 15 days after making a determination to increase or extend assistance under a Compact with an eligible country, the Board, acting through the Chief Executive Officer shall prepare and transmit to the appropriate congressional committees a written report and justification that contains a detailed summary of the proposed increase in or extension of assistance under the Compact and a copy of the full text of the amendment to the Compact.
  - Reference: 22 U.S.C. § 7708(i)(1) (2017)
- Not later than 15 days prior to the start of negotiations of a Compact with an eligible country, the Board, acting through the Chief Executive Officer shall consult with the appropriate congressional committees with respect to the proposed Compact negotiation and shall identify the objectives and mechanisms to be used for the negotiation of the Compact.
  - Reference: 22 U.S.C. § 7709(a) (2017)
- Not later than 10 days after entering into a Compact with an eligible country, the Board, acting through the Chief Executive Officer shall provide notification of the Compact to the appropriate congressional committees, including a detailed summary of the Compact and a copy of the text of the Compact.
  - Reference: 22 U.S.C. § 7709(b)(a) (2017)
- Not later than 3 days after the date on which the Chief Executive Officer suspects or terminates assistance under subsection (a) of this section for a country or entity, or reinstates assistance under subsection (b) of this section for a country or entity, the Chief Executive Officer shall submit to the appropriate congressional committees a report that contains the determination of the Chief Executive Officer under subsection (a) of this section or subsection (b) of this section, as the case may be.
  - Reference: 22 U.S.C. § 7710(c) (2017)
- Not later than March 31, 2005, and each March 31 thereafter, the President shall submit to Congress a report on the assistance provided under section 7704 of this title during the prior fiscal year.
  - Reference: 22 U.S.C. § 7712 (2017)
- The Corporation shall notify the appropriate congressional committees not less than 15 days prior to an allocation or transfer of funds pursuant to paragraph (1) [transfer to any other agency].
  - Reference: 22 U.S.C. § 7718(b)(2) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **MORRIS K. UDALL AND STEWART L. UDALL FOUNDATION**

*Date of Creation:* March 19, 1992<sup>415</sup>

*Statute:* 20 U.S.C. §§ 5601-5609 (2017)

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<sup>415</sup> Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992, Pub. L. No. 102-259, 106 Stat. 78 (1992).

*Authorizing Language:* There is established as an independent entity of the executive branch of the United States Government, the Morris K. Udall and Stewart L. Udall Foundation.

- Reference: 20 U.S.C. § 5603(a) (2017)

*Commissioners/Board Members:* The Foundation shall be subject to the supervision and direction of the Board of Trustees. The Board shall be comprised of thirteen trustees, eleven of whom shall be voting members of the Board, as follows: Two Trustees, shall be appointed by the President, with the advice and consent of the Senate, after considering the recommendation of the Speaker of the House of Representatives, in consultation with the Minority Leader of the House of Representatives; Two Trustees, shall be appointed by the President, with the advice and consent of the Senate, after considering the recommendation of the President pro tempore of the Senate, in consultation with the Majority and Minority Leaders of the Senate; Five Trustees. . .appointed by the President with the advice and consent of the Senate. . .The Secretary of the Interior, or the Secretary's designee, who shall serve as a voting ex officio member of the Board but shall not be eligible to serve as Chairperson; the Secretary of Education, or the Secretary's designee, who shall serve as a voting ex officio member of the Board but shall not be eligible to serve as Chairperson; The President of the University of Arizona shall serve as a nonvoting, ex officio member and shall not be eligible to serve as chairperson; the chairperson of the President's Council on Environmental Quality, who shall serve as a nonvoting, ex officio member and shall not be eligible to serve as chairperson.

- Reference: 20 U.S.C. § 5603(b) (2017)

*Quorum Rules:* None

*Agency Specific Personnel:* In order to carry out the provisions of this chapter, the Foundation may appoint such personnel as may be necessary to carry out the provisions of this chapter, without regard to the provisions of Title 5 governing appointments in the competitive service.

- Reference: 20 U.S.C. § 5608(a)(1)(A)

*Limitation on Appointment:* [The 5 PAS trustees appointed without consultation shall] have shown leadership and interest in the continued use, enjoyment, education, and exploration of our Nation's rich and bountiful natural resources, such as presidents of major of foundations involved with the environment or in the improvement of the health status of Native Americans and Alaska Natives and in strengthening tribal self-governance, such as tribal leaders involved in health and public policy development affecting Native American and Alaska Native Communities.

- Reference: 20 U.S.C. § 5603(b)(3) (2017)

*Party Balancing:* Not more than three of [the 5 PAS trustees appointed without consultation] shall be of the same political party.

- Reference: 20 U.S.C. § 5603(b)(3) (2017)

*Fixed Terms:* The term of office of each member of the Board shall be six years.

- Reference: 20 U.S.C. § 5603(c)(1) (2017)

*Staggered Terms:* In the case of the Trustees first taking offices as designated by the President, one Trustee appointed pursuant to subsection (b)(2) [with Senate input] and two trustees appointed pursuant to subsection (b)(3) [no input] shall each serve two years; as designated by the President, one Trustee appointed pursuant to subsection (b)(1) [with House input] and two Trustees appointed pursuant to subsection (b)(3) [no input] shall

each serve four years; and as designated by the President, one Trustee appointed pursuant to subsection (b)(1) [with House input] and one Trustee appointed pursuant to subsection (b)(3) [no input] shall each serve six years.

- Reference: 20 U.S.C. § 5603(c)(1)(A) (2017)

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* A trustee may serve after the expiration of the Trustee's term until a successor has been chosen.

- Reference: 20 U.S.C. § 5603(c)(1)(C) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* None

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* There is established in the Treasury of the United States a trust fund to be known as the "Morris K. Udall and Stewart L. Udall Trustee Fund" to be administered by a Foundation. The Trust Fund shall consist of amounts appropriated to it pursuant to section 5609(a) of this title and amounts credited to it under subsection (b). It shall be the duty of the Secretary of the Treasury to invest, at the direction of the Foundation Board, in full the amounts appropriated to the Trust Fund. Such investments shall be in public debt securities with maturities suitable to the needs of the Trust Fund.

- Reference: 20 U.S.C. § 5606 (2017)
- There is established in the Treasury of the United States an Environmental Dispute Resolution Fund to be administered by the Foundation. The Fund shall consist of amounts appropriated to the Fund under section 5609(b) of this title and amounts paid into the Fund under section 5607b of this title. The Foundation shall expend from the Fund such sums as the Board determines are necessary to establish and operate the institute, including such amounts as are necessary for salaries, administration, the provision of mediation and other services, and such other expenses as the Board determines are necessary, including not to exceed \$1,000 annually for official reception and representation expenses. . .The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.
  - Reference: 20 U.S.C. § 5607a (2017)
- In order to carry out the provisions of this chapter, the Foundation may. . .accept, hold, administer, and utilize gifts, both real and personal, for the purpose of aiding or facilitating the work of the Foundation.
  - Reference: 20 U.S.C. § 5608(a)(4) (2017)

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

*Date of Creation:* July 29, 1958<sup>416</sup>

*Statute:* 51 U.S.C. §§ 20101-20164 (2017)

*Authorizing Language:* There is established the National Aeronautics and Space Administration.

- Reference: 51 U.S.C. § 20111(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* The officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with chapter 51 and subchapter III of chapter 53 of Title 5, except that to the extent the Administrator deems such action necessary to the discharge of the Administrator's responsibilities, the Administrator may appoint not more than 425 of the scientific, engineering, and administrative personnel of the Administration without regard to such laws, and may fix the compensation of such personnel not in excess of the rate of basic pay payable for level III of the Executive Schedule and to the extent the Administrator deems such action necessary to recruit specially qualified scientific and engineering talent, the Administrator may establish the entrance grade for scientific and engineering personnel without previous service in the Federal Government at a level up to 2 grades higher than the grade provided for such personnel under the General Schedule, and fix their compensation accordingly.

- Reference: 51 U.S.C. § 20113(b) (2017)

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* The Deputy Administrator shall act for, and exercise the powers of, the Administrator during the Administrator's absence or disability.

- Reference: 51 U.S.C. § 20111(b) (2017)

*Who is Head of Agency:* The Administration shall be headed by an Administrator, who shall be appointed from civilian life by the President by and with the advice and consent of the Senate.

- Reference: 51 U.S.C. § 20111(a) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* In the performance of its functions, the Administration is authorized to accept unconditional gifts or donations of services, money, or property, real, personal, or mixed, tangible or intangible.

- Reference: 51 U.S.C. § 20113(d) (2017)
- The Administrator may utilize amounts of cash consideration received under this subsection for a lease entered into under this section to cover the full costs to the Administration in connection with the lease. These funds shall remain available until expended. Of any amounts of cash consideration received under this subsection that are

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<sup>416</sup> National Aeronautics and Space Act of 1958, Pub. L. No. 85-568, 72 Stat. 426 (1958).

not utilize in accordance with subparagraph (A) 35 percent shall be deposited in a capital asset account to be established by the Administrator, shall be available for maintenance, capital revitalization, and improvements of the real property assets and related personal property under the jurisdiction of the Administrator, and shall remain available until expended; and the remaining 65 percent shall be available to the respective center or facility of the Administration engaged in the lease of nonexcess real property, and shall remain available until expended for maintenance, capital revitalization, and improvements of the real property assets and related personal property at the respective center or facility subject to the concurrence of the Administrator.

- Reference: 51 U.S.C. § 20145(b)(2) (2017)

*Reporting Requirements:* The President shall transmit to Congress in May of each year a report which shall include a comprehensive description of the programmed activities and the accomplishments of all agencies of the United States in the field of aeronautics and space activities during the preceding fiscal year and an evaluation of such activities and accomplishments in terms of the attainment of, or the failure to attain, the objectives described in section 20102(d) of this title.

- Reference: 51 U.S.C. § 20116(a) (2017)
- Notwithstanding the provisions of this or any other law, the Administration may not report to a disposal agency as excess to the needs of the Administration any land having an estimated value in excess of \$50,000 that is owned by the United States and under the jurisdiction and control of the Administration, unless a period of 30 days has passed after the receipt by the Speaker and the Committee on Science and Technology of the House of Representatives and the President and the Committee on Commerce, Science, and Transportation of the Senate of a report by the Administrator or the Administrator's designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such action or each such committee before the expiration of that period has transmitted to the Administrator written notice to the effect that the committee has no objection to the proposed action.
  - Reference: 51 U.S.C. § 20117 (2017)
- No award may be made under subsection (a) [monetary awards for scientific or technical contributions to the Administration] in an amount exceeding \$100,000 unless the Administrator transmits to the appropriate committees of Congress a full and complete report concerning the amount and terms of, and the basis for, the proposed award, and a period of 30 calendar days or regular session of Congress expires after receipt of the report by the committees.
  - Reference: 51 U.S.C. § 20136(d) (2017)
- No prize competition under this section [prizes to stimulate innovation] may offer a prize in an amount greater than \$50,000,000 unless 30 days have elapsed after written notice has been transmitted to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.
  - Reference: 51 U.S.C. § 20144(i)(5) (2017)
- The Administrator shall submit an annual report by January 31<sup>st</sup> of each year. The report shall include the following: information that identifies and quantifies the value of the arrangements and expenditures of revenues received under this section; the availability and use of funds received under this section for the Administration's operating plan.

- Reference: 51 U.S.C. § 20145(f) (2017)

*Review Commissions:* None

*Advisory Commissions:* In the performance of its functions, the Administration is authorized to appoint such advisory committees as may be appropriate for purposes of consultation and advice to the Administration and Congress.

- Reference: 51 U.S.C. § 20113(g) (2017)

*Action Require Outside Approval:* If the Secretary of Defense concludes that any request, action, proposed action, or failure to act on the part of the Administrator is adverse to the responsibilities of the Department of Defense, or the Administrator concludes that any request, action, proposed action, or failure to act on the part of the Department of Defense is adverse to the responsibilities of the Administration, and the Administrator and the Secretary of Defense are unable to reach an agreement with respect to the matter, either the Administrator or the Secretary of Defense may refer the matter to the President for a decision (which shall be final).

- Reference: 51 U.S.C. § 20114(b) (2017)

*Legislative Veto:* None

*Adjudication:* None

## **NATIONAL ARCHIVES AND RECORDS ADMINISTRATION**

*Date of Creation:* June 19, 1934<sup>417</sup>

*Statute:* 44 U.S.C. §§ 2101-2120 (2017)

*Authorizing Language:* There shall be an independent establishment in the executive branch of the Government to be known as the National Archives and Records Administration.

- Reference: 44 U.S.C. § 2102 (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* The Archivist may appoint a director without regard to subchapter I and subchapter VIII of chapter 33 of Title 5, governing appointments in the competitive service and the Senior executive Service.

- Reference: 44 U.S.C. § 2105(a)(2) (2017)

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* The Archivist may be removed from office by the President. The President shall communicate the reasons for any such removal to each House of the Congress.

- Reference: 44 U.S.C. § 2103(a) (2017)

*Continuation until Replacement:* None

*Acting Service Rules:* During any absence or disability of the Archivist, the Deputy Archivist shall act as Archivist. In the event of a vacancy in the office of the Archivist, the Deputy Archivist shall act as an Archivist until an Archivist is appointed under subsection (a).

- Reference: 44 U.S.C. § 2103(c) (2017)

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<sup>417</sup> National Archives Act of 1934, Pub. L. No. 73-432, 48 Stat. 1122 (1934).

*Who is Head of Agency:* The Administration shall be administered under the supervision and director of the Archivist.

- Reference: 44 U.S.C. § 2102 (2017)
- The Archivist of the United States shall be appointed by the President by and with the advice and consent of the Senate.
  - Reference: 44 U.S.C. § 2103(a) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* When the Archivist considers it to be in the public interest, the Archivist may accept, for and in the name of the United States, land, a facility, and equipment offered as a gift to the United States for the purpose of creating a Presidential archival depository; take title to the land, facility, and equipment on behalf of the United States; and maintain, operate, and protect the land, facility, and equipment as a Presidential archival depository and as part of the national archives system.

- Reference: 44 U.S.C. § 2112(a)(1)(A) (2017)
- When the Archivist considers it to be in the public interest, the Archivist may. . . accept, for and in the name of the United States, gifts offered for the purpose of making any physical or material change or addition to a Presidential archival depository.
  - Reference: 44 U.S.C. § 2112(a)(1)(C) (2017)
- When the Archivist considers it to be in the public interest, the Archivist may solicit and accept gifts or bequests of money or other property for the purpose of maintaining, operating, protecting, or improving a Presidential archival depository. The proceeds of gifts or bequests, together the proceeds from fees or from sales of historical materials, copies or reproductions, catalogs, or other items, having to do with a Presidential archival depository, shall be paid into an account in the National Archives Trust Fund and shall be held, administered, and expended for the benefit and in the interest of the Presidential archival depository in connection with which they were received, and for the same purposes and objects, including custodial and administrative services for which appropriations for the maintenance, operation, protection, or improvement of Presidential archival depositories might be expended. The Archivist shall provide for the establishment in such Trust Fund of separate endowments for the maintenance of the land, facility, and equipment of each Presidential archival depository, to which shall be credited any gifts or bequests received under paragraph (1) that are offered for that purpose. Income to each such endowment shall be available to cover the cost of facility operations, but shall not be available for the performance of archival functions under this title.
  - Reference: 44 U.S.C. § 2112(g) (2017)
- The Archivist may charge a fee set to recover the costs for making or authenticating copies or reproductions of materials transferred to the Archivist's custody. Such fee shall be fixed by the Archivist at a level which will recover, so far as practicable, all elements of such costs, and may, in the Archivist's discretion, include increments for the estimated replacement cost of equipment. Such fees shall be paid into, administered, and expended as a part of the National Archives Trust Fund.
  - Reference: 44 U.S.C. § 2116(c) (2017)

*Reporting Requirements:* The Archivist shall submit to the Congress, in January of each year and at such other times as the Archivist finds appropriate, a report concerning the

administration of functions of the Archivist, the Administration, the National Historical Publication and Records Commission, and the National Archives Trust Fund.

- Reference: 44 U.S.C. § 2106 (2017)
- Prior to accepting and taking title to any land, facility, or equipment under subparagraph (A) of paragraph (1), or prior to entering into any agreement under subparagraph (B) of such paragraph or any other agreement to accept or publish a Presidential archival depository, the Archivist shall submit a written report on the proposed Presidential archival depository to the President of the Senate and the Speaker of the House of Representatives.
  - Reference: 44 U.S.C. § 2112(a)(3) (2017)
- Prior to accepting any gift under subparagraph (C) of paragraph (1) for the purpose of making any physical or material change or addition to a Presidential archival depository, or prior to implementing any provision of law requiring the making of such a change or addition, the Archivist shall submit a report in writing on the proposed change or addition to the President of the Senate and the Speaker of the House of Representatives.
  - Reference: 44 U.S.C. § 2122(a)(4) (2017)
- When the Archivist finds that a provision of any such chapter has been or is being violated, the Archivist shall (1) inform in writing the head of the agency concerned of the violation and make recommendations for its correction; and (2) unless satisfactory corrective measures are demonstrably commenced within a reasonable time, submit a written report of the matter to . . .the Congress.
  - Reference: 44 U.S.C. § 2115(b) (2017)
- Not later than December 31<sup>st</sup> of each year, the Archivist shall submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a report on the provisions, amount, and duration of each cooperative agreement entered into as authorized by subsection (a) [involving the transfer of funds] during the preceding fiscal year.
  - Reference: 44 U.S.C. § 2119(c) (2017)

*Review Commissions:* None

*Advisory Commissions:* The Archivist may establish advisory committees to provide advise with respect to any function of the Archivist or the Administration.

- Reference: 44 U.S.C. § 2104(f) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **NATIONAL ASSOCIATION OF REGISTERED AGENTS AND BROKERS**

*Date of Creation:* November 12, 1999<sup>418</sup>

*Statute:* 15 U.S.C. §§ 6751-6764 (2017)

*Authorizing Language:* There is established the National Association of Registered Agents and Brokers. The Association shall be a nonprofit corporation; not be an agent or instrumentality of the Federal Government; be an independent organization that may not be merged with or into any other private or public entity; and except as otherwise

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<sup>418</sup> Gramm-Leach-Bliley Financial Modernization Act, Pub. L. 106-102, 113 Stat. 1338 (1999).

provided in this subchapter, be subject to, and have all the powers conferred upon, a nonprofit corporation by the District of Columbia Nonprofit Corporation Act or any successor thereto.

- Reference: 15 U.S.C. § 6751 (2017)

*Commissioners/Board Members:* The Board shall consist of 13 members who shall be appointed by the President, by and with the advice and consent of the Senate, in accordance with the procedures under Senate Resolution 116 of the 112<sup>th</sup> Congress. . . Before making any appointments pursuant to paragraph (1)(A), the President shall request a list of recommended candidates from the States through the NAIC, which shall not be binding on the President. If the NAIC fails to submit a list of recommendations not later than 15 business days after the date of the request, the President may make the requisite appointments without considering the views of the NAIC.

- Reference: 15 U.S.C. § 6754(a) (2017)

*Quorum Rules:* A majority of all Board members shall constitute a quorum.

- Reference: 15 U.S.C. § 6754(f)(2) (2017)

*Agency Specific Personnel:* In addition to all the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act, the Association shall have the power to. . . establish personnel policies of the Association and programs relating to, among other things, conflicts of interest, rates of compensation, where applicable, and qualifications of personnel.

- Reference: 15 U.S.C. § 6756(6) (2017)

*Limitation on Appointment:* Of [the members] 8 shall be State insurance commissioners<sup>419</sup>. . . 3 shall have demonstrated expertise and experience with property and casualty insurance producer licensing; and 2 shall have demonstrated expertise and experience with life or health insurance producer licensing.

- Reference: 15 U.S.C. § 6754(c)(1) (2017)
- If a Board member appointed under paragraph (1)(A) [State commissioners] ceases to be a State insurance commissioner during the term of the Board member, the Board member shall cease to be a Board member.
- Reference: 15 U.S.C. § 6754(c)(2)(D) (2017)

*Party Balancing:* Not more than 4 Board members appointed under paragraph (1)(A) [State commissioners] shall belong to the same political party.

- Reference: 15 U.S.C. § 6754(c)(2)(B) (2017)

*Fixed Terms:* The term of service for each Board member shall be 2 years.

- Reference: 15 U.S.C. § 6754(d)(1) (2017)

*Staggered Terms:* The term of service shall be 1 year, as designated by the President at the time of the nomination of the subject Board members for 4 of the State insurance commissioner board members initially appointed under paragraph (1)(A) [State commissioners], of whom not more than 2 shall belong to the same political party; 1 of the Board members initially appointed under paragraph (1)(B) [property and casualty insurance]; and 1 of the Board members initially appointed under paragraph (1)(C) [life or health insurance].

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<sup>419</sup> If fewer than 8 State insurance commissioners have accepted appointment to the Board, the President may appoint the remaining State insurance commissioner members from among former commissioners, while still following party balancing requirements. 15 U.S.C. § 6754(c)(2)(C)(i) (2017)

- Reference: 15 U.S.C. § 6754(d)(2)(A) (2017)

*For Cause:* If the President determines that the Association is acting in a manner contrary to the interests of the public or the purposes of this subchapter or has failed to perform its duties under this subchapter, the President may remove the entire existing Board for the remainder of the term to which the Board members were appointed and appoint, in accordance with section 6754 of this title and with the advice and consent of the Senate, in accordance with procedures established under Senate Resolution 116 of the 112<sup>th</sup> Congress, new Board members to fill the vacancies on the Board for the remainder of the terms.

- Reference: 15 U.S.C. § 6759(a) (2017)
- The President may remove a Board member only for neglect of duty or malfeasance in office.
  - Reference: 15 U.S.C. § 6759(b) (2017)

*Serve President:* None

*Continuation until Replacement:* A Board member may continue to serve after the expiration of the term to which the Board member was appointed for the earlier of 2 years or until a successor is appointed.

- Reference: 15 U.S.C. § 6754(d)(2)(B) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* One of [the 8 State commissioners] shall be designated by the President to serve as the chairperson of the Board until the Board elects one such State insurance commissioner Board member to serve as the chairperson of the Board.

- Reference: 15 U.S.C. § 6754(c)(1)(A) (2017)

*OMB Review:* None<sup>420</sup>

*Independent Litigating:* None<sup>421</sup>

*Independent Sources of Funding:* The board of directors of the Association shall prescribe procedures for obtaining and utilizing fingerprints or other identification information and criminal history record information, including the establishment of reasonable fees to defray the expenses of the Association in connection with the performance of a criminal history record check and appropriate safeguards for maintaining confidentiality and security of the information.

- Reference: 15 U.S.C. § 6753(a)(4)(C)(ii) (2017)
- In addition to all the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act, the Association shall have the power to establish and collect such membership fees as the Association finds necessary to impose to cover the costs of its operations.
  - Reference: 15 U.S.C. § 6756(1) (2017)

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

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<sup>420</sup> Because the Association is not an agent or instrumentality of the Federal Government, it is not subject to OMB review.

<sup>421</sup> Because the Association is not an agent or instrumentality of the Federal Government, the Attorney General does not have jurisdiction over its litigation.

*Adjudication:* None

## **NATIONAL CONSUMER COOPERATIVE BANK**

*Date of Creation:* August 20, 1978<sup>422</sup>

*Statute:* 12 U.S.C. §§ 3011-3051 (2017)

*Authorizing Language:* The Congress of the United States hereby creates and charters a body corporate to be known as the National Consumer Cooperative Bank.

- Reference: 12 U.S.C. § 3011 (2017)

*Commissioners/Board Members:* The Bank shall be governed by a Board of Directors which shall consist of 15 members. . .The President shall appoint, by and with the advice and consent of the Senate [three members]. . .Twelve members of the Board shall be elected by the holders of class B stock and class C stock in accordance with the provisions of subsection (d) of this section and the bylaws of the Bank.

- Reference: 12 U.S.C. § 3013(a)-(b) (2017)

*Quorum Rules:* None

*Agency Specific Personnel:* The Bank. . .shall have the power to. . .approve the salary scale of officers and employees of the Bank, in accordance with regulations and standards adopted by the Board of Directors, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of Title 5 relating to classification and General Schedule pay rates, but, except as otherwise provided in this chapter, the General Schedule pay rates shall be applicable until all class A stock held by the Secretary of the Treasury has been retired.

- Reference: 12 U.S.C. § 3012(17) (2017)

*Limitation on Appointment:* [Of the PAS members] one member who shall be selected from among proprietors of small business concerns, as defined under section 632 of Title 15, which are manufacturers or retailers; one member who shall be selected from among the officers of the agencies and departments of the United States; and one member who shall be selected from among persons having extensive experience in the cooperative field representing low-income cooperatives eligible to borrow from the Bank.

- Reference: 12 U.S.C. § 3013(b)(1) (2017)
- No director shall be eligible to be elected for more than two consecutive full three-year terms. No officer of the Bank shall be eligible to serve simultaneously as a director on the Board of the Bank.
  - Reference: 12 U.S.C. § 3013(e) (2017)

*Party Balancing:* None

*Fixed Terms:* All members shall serve for a term of 3 years.

- Reference: 12 U.S.C. § 3013(a) (2017)

*Staggered Terms:* On the date after the Final Government Equity Redemption Date, all members of the Board of Directors of the Bank who were appointed by the President shall resign, except that the member who shall have been appointed by the President from among proprietors of small business concerns, and one member who shall be designated by the President and who shall have been appointed by the President from among the officers

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<sup>422</sup> National Consumer Cooperative Bank Act, Pub. L. 95-351, 92 Stat. 499 (1978).

and employees of the agencies and departments of the United States Government, may continue to serve until their successors have been appointed and qualified.

- Reference: 12 U.S.C. § 3013(c)(1)

*For Cause:* Any member appointed by the President may be removed for cause by the President.

- Reference: 12 U.S.C. § 3013(a) (2017)

*Serve President:* None

*Continuation until Replacement:* After the expiration of the term of any member, such member may continue to serve until his successor has been elected or has been appointed and qualified.

- Reference: 12 U.S.C. § 3013(a) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* The Board shall annually elect from among its members a chairman.

- Reference: 12 U.S.C. § 3013(f) (2017)

*OMB Review:* None

*Independent Litigating:* The Bank. . .shall have the power to. . .sue and be sued in its corporate name and complain and defend, in any court of competent jurisdiction, State or Federal.

- Reference: 12 U.S.C. § 3012(6) (2017)

*Independent Sources of Funding:* The Bank. . .shall have the power to. . .issue certificates of indebtedness to its stockholders or members and pay interest on funds left with the Bank, and accept grants or interest free temporary use of funds made available to it; participate with one or more other financial institutions, agencies, instrumentalities, or foundations in loans or guarantees under this chapter on terms as may be agreed upon; accept guarantees from other agencies for which loans made by the Bank may be eligible.

- Reference: 12 U.S.C. § 3012(12)-(14) (2017)
- The Bank. . .shall have the power to. . .buy and sell obligations of, or insured by, the United States or any agency or instrumentalities thereof, or securities backed by the full faith and credit of any such agency or instrumentality and, after the financial Government Equity Redemption Date, make such other investments as may be authorized by the Board of Directors.
  - Reference: 12 U.S.C. § 3012(16) (2017)
- The capital of the Bank shall consist of capital subscribed by borrowers from the Bank, by cooperatives eligible to become borrowers, by organizations owned and controlled by such borrowers, by foundations, trust or charitable funds, by public bodies, by other public or private investors, and by the United States. The capital stock of the Bank shall include class B and class C stock and such other classes with such rights, powers, privileges, and preference of the separate classes as may be specified, not inconsistent with law, in the bylaws of the Bank.
  - Reference: 12 U.S.C. § 3014 (2017)
- The Bank is authorized to obtain funds through the public or private sale of its bonds, debentures, notes, and other evidence of indebtedness. Such obligations shall be used at such times, bear interest at such rates, and contain such terms and conditions as the Board shall determine: Provided, however, That the amount of such obligations which may be outstanding at any one time pursuant to this section shall not exceed ten times the paid-in capital and surplus of the Bank. The Bank may purchase its own obligations, and may provide for the sale of any such obligations through a fiscal agent or agents, by

negotiation, officer, bid, syndicate sale, or otherwise, and may deliver such obligations by book entry, wire transfer, or such other means as may be appropriate.

- Reference; 12 U.S.C. § 3017 (2017)

*Reporting Requirements:* The Board of the Bank shall report annually to the appropriate committees of the Congress on the Bank's capital, operations, and financial condition and make recommendations for legislation needed to improve its services.

- Reference: 12 U.S.C. § 3021 (2017)

*Review Commissions:* None

*Advisory Commissions:* The Bank. . . shall have the power to. . . establish. . . one or more advisory councils in connection with any such branch officers, as may from time to time be authorized by the Board of Directors.

- Reference: 12 U.S.C. § 3012(15) 92017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **NATIONAL CREDIT UNION ADMINISTRATION**

*Date of Creation:* March 10, 1970<sup>423</sup>

*Statute:* 12 U.S.C. §§ 1751-1795k (2017)

*Authorizing Language:* There is established in the executive branch of the Government an independent agency to be known as the National Credit Union Administration.

- Reference: 12 U.S.C. § 1752a(a) (2017)

*Commissioners/Board Members:* The Board shall consist of three members. . . appointed by the President, by and with the advice and consent of the Senate.

- Reference: 12 U.S.C. § 1752a(b)(1) (2017)

*Quorum Rules:* A majority of the Board shall constitute a quorum.

- Reference: 12 U.S.C. § 1752a(d) (2017)

*Agency Specific Personnel:* The Board shall fix the compensation and number of, and appoint and direct, employees of the Board. Rates of basic pay for employees of the Board may be set and adjusted by the Board without regard to the provisions of chapter 51 or subchapter III of chapter 53 of Title 5. . . In setting and adjusting the total amount of compensation and benefits for employees of the Board, the Board shall seek to maintain comparability with other Federal bank regulatory agencies.

- Reference: 12 U.S.C. § 1766(j) (2017)

*Limitation on Appointment:* In considering appointments to the Board under paragraph (1), the President shall give consideration to individuals who, by virtue of their education, training, or experience relating to a broad range of financial services, financial services regulation, or financial policy, are especially qualified to serve on the Board.

- Reference: 12 U.S.C. § 1752(b)(2)(A) (2017)
- Not more than one member of the Board may be appointed to the Board from among individuals who, at the time of the appointment, are, or have recently been, involved with any insured credit union as a committee member, director, officer, employee, or other institution-affiliated party.

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<sup>423</sup> Federal Credit Union Act Amendment, Pub. L. 91-206, 84 Stat. 49 (1970).

- Reference: 12 U.S.C. § 1752(b)(2)(B) (2017)
- Board members shall not be appointed to succeed themselves except the initial members appointed for less than a six-year term may be reappointed for a full six-year term and future members appointed to fill unexpired terms may be reappointed for a full six year term.
- Reference: 12 U.S.C. § 1752a(c) (2017)

*Party Balancing:* Not more than two members of the Board shall be members of the same political party.

- Reference: 12 U.S.C. § 1752a(b)(1) (2017)

*Fixed Terms:* The term of office of each member of the Board shall be six years.

- Reference: 12 U.S.C. § 1752a(c) (2017)

*Staggered Terms:* The terms of the two members, other than the Chairman, initially appointed shall expire one upon the expiration of two years after the date of appointment, and the other upon the expiration of four years after the date of appointment.

- Reference: 12 U.S.C. § 1752a(c) (2017)

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* Any Board member may continue to serve as such after the expiration of said member's term until a successor has qualified.

- Reference: 12 U.S.C. § 1752a(c) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* In appointing members of the Board, the President shall designate the Chairman.

- Reference: 12 U.S.C. § 1752a(b)(1) (2017)
- The Chairman of the Board shall be the spokesman for the Board and shall represent the Board and the National Credit Union Administration in its official relations with other Branches of government.
- Reference: 12 U.S.C. § 1752a(e) (2017)

*OMB Review:* None<sup>424</sup>

*Independent Litigating:* In carrying out the purposes of this subchapter, the Board may. . .sue and be sued, complain and defend, in any court of law or equity, State or Federal.

- Reference: 12 U.S.C. § 1789(a)(2) (2017)

*Independent Sources of Funding:* In accordance with rules prescribed by the Board, each Federal credit union shall pay to the Administration an annual operating fee which may be composed of one or more charges identified as to the function or functions for which assessed. . .All operating fees shall be deposited with the Treasurer of the United States for the account of the Administration and may be expended by the Board to defray the expenses incurred in carrying out the provisions of this chapter including the examination and supervision of Federal credit unions. . . .All income derived from such investments and reinvestments [of annual operating fees not needed for current operations] shall be deposited to the account of the Administration described in subsection (d) of this section.

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<sup>424</sup> Financial regulatory agencies, including the Comptroller of the Currency, are exempt from OMB legislative communications review. 12 U.S.C. § 250 (2017). See also, Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget "Bypass" Authorities (Feb. 20, 2001), available at <http://www.citizen.org/documents/OMBDocument1.pdf>.

- Reference: 12 U.S.C. § 1755 (2017)
- The Board is authorized to accept gifts of money made unconditionally by will or otherwise for the carrying out of any of the functions under this chapter. A conditional gift of money made by will or otherwise for such purposes may be accepted and used in accordance with its conditions, but no such gift shall be accepted which is conditioned upon any expenditure not to be met therefrom or from income thereof unless the Board determines that supplementation of such gift from the fees it may expend pursuant to sections 1755 and 1756 of this title or from any funds appropriated pursuant to section 1766(f)(2)(C) of this title for the purpose of making such expenditure will not adversely affect the sound administration of this chapter. Any such gift shall be deposited in the Treasury of the United States for the account of the Administration and may be expended in accordance with section 1755 of this title or as provided in the preceding sentence.
  - Reference: 12 U.S.C. § 1772a (2017)
- The Board may exercise the authority granted to it by the Community Development Credit Union Revolving Loan Fund Transfer Act, including any additional appropriation made or earnings accrued, subject only to this section and to regulations prescribed by the Board.
  - Reference: 12 U.S.C. § 1772c-1 (2017)
- Each insured credit union shall pay to and maintain with the National Credit Union Share Insurance Fund a deposit in an amount equally 1 per centum of the credit union's insured shares. . . The deposit funds may be used by the fund if necessary to meet its expenses, in which case the amount so used shall be expensed and shall be replenished by insured credit unions in accordance with procedures established by the Board. Each insured credit union shall, at such times as the Board prescribes (but not more than twice in any calendar year), pay to the Fund a premium charge for insurance in an amount stated as a percentage of insured shares (which shall be the same for all insured credit unions).
  - Reference: 12 U.S.C. § 1782 (2017)
- There is hereby created in the Treasury of the United States a National Credit Union Share Insurance Fund which shall be used by the Board as a revolving fund for carrying out the purposes of this subchapter. Money in the fund shall be available upon requisition by the Board, without fiscal year limitation, for making payments of insurance under section 1787 of this title, for providing assistance and making expenditures under section 1788 of this title in connection with the liquidation or threatened liquidation of insured credit unions, and for such administrative and other expenses incurred in carrying out the purposes of this subchapter as it may determine to be proper. All deposits and premium charges for insurance paid pursuant to the provisions of section 1782 of this title and all fees for examinations and all penalties collected by the Board under any provision of this subchapter shall be deposited in the National Credit Union Share Insurance Fund.
  - Reference: 12 U.S.C. § 1783 (2017)
- Moneys received by the Board in carrying out this section [special assistance to avoid liquidation] shall be paid into the Fund.
  - Reference: 12 U.S.C. § 1788(c) (2017)
- There is hereby created in the Treasury of the United States a fund to be known as the Temporary Corporate Credit Union Stabilization Fund. The Board will administer the Stabilization Fund as prescribed by section 1789 of this title. Money in the Stabilization Fund shall be available upon requisition by the Board, without fiscal year limitation, for

making payments for the purposes described in section 1783(a) of this title. . . In order to make expenditures [from the Fund], as described in subsection (b), the Board may assess a special premium with respect to each insured credit union in an aggregate amount that is reasonably calculated to make any pending or future expenditure described in subsection (b), which premium shall be due and payable not later than 60 days after the date of the assessment.

- Reference: 12 U.S.C. § 1790e (2017)

*Reporting Requirements:* Not later than April 1 of each calendar year, and at such other times as the Congress shall determine, the Board shall make a report. . . to the Congress. Such a report shall summarize the operations of the Administration and set forth such information as is necessary for the Congress to review the financial program approved by the Board.

- Reference: 12 U.S.C. § 1752a(d) (2017)
- The Board shall report annually to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance, and Urban Affairs of the House of Representatives with respect to the operating level of the [National Credit Union Share Insurance] fund.
  - Reference: 12 U.S.C. § 1783(b) (2017)
- A written report shall be made of a determination not to hold a public hearing pursuant to paragraph (2) [regarding termination of insured credit union status, cease and desist orders, removal or suspension from office] or not to publish a document pursuant to paragraph (1)(A). At the end of each calendar quarter, all such reports shall be transmitted to the Congress.
  - Reference: 12 U.S.C. § 1786(s)(3) (2017)
- If the Fund incurs a material loss with respect to an insured credit union, the Inspector General of the Board shall [write a report reviewing the supervision of the credit union by the Administration and] submit a copy of the report under subparagraph (A) to. . . any Member of Congress, upon request.
  - Reference: 12 U.S.C. § 1790d(j)(B)(iv) (2017)
- For the 6-month period ending on March 31, 2010, and each 6-month period thereafter, the Inspector General of the Board shall. . . prepare and submit a written report to the Board and to Congress on the results of the determinations of the Inspector General that includes an identification of any loss that warrants an in-depth review, and the reasons such review is warranted, or if the Inspector General determines that no review is warranted, an explanation of such determination and for each loss identified in subclause (I) that warrants and in-depth review, the date by which such review, and a report on the review prepared in a manner consistent with reports under paragraph (1)(A), will be completed.
  - Reference: 12 U.S.C. § 1790d(j)(4)(iii) (2017)
- Prior to authorizing each payment [from the Stabilization Fund] the Board shall report each such certification to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.
  - Reference: 12 U.S.C. § 1790e(b) (2017)
- The Board shall submit an annual report to Congress on the financial condition and the results of the operation of the Stabilization Fund. The report is due to Congress within 30 days after each anniversary of the first advance made under subsection (c)(1).

- Reference: 12 U.S.C. § 1790e(g) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* Whenever, in the opinion of the Board, any insured credit union is engaging or has engaged in unsafe or unsound practices in conducting the business of such credit union, or is in an unsafe or unsound condition to continue operations as an insured credit union, or is violating or has violated an applicable law, rule, regulation, order, or any condition imposed in writing by the Board in connection with any action on any application, notice, or other request by the credit union or institution-affiliated party, or is violating or has violated any written agreement entered into with the Board, the Board shall serve upon the credit union a statement with respect to such practices or conditions or violations for the purpose of securing the correction thereof. . . In the event of such consent [by nonappearance], or if upon the record made at any such hearing the Board shall find that any unsafe or unsound practice or condition or violation specified in the notice has been established and has not been corrected within the time above-prescribed in which to make such correction, the Board may issue and serve upon the credit union an order terminating its status as an insured credit union on a date subsequent to the date of such finding and subsequent to the expiration of the time specified in the notice.

- Reference: 12 U.S.C. § 1786(b)(1) (2017)

- If, in the opinion of the Board, any insured credit union, credit union which has insured accounts, or any institution-affiliated party is engaging or has engaged, or the Board has reasonable cause to believe that the credit union or any institution-affiliated party is about to engage, in an unsafe or unsound practice in conducting the business of such credit union, or is violating or has violated, or the Board has reasonable cause to believe that the credit union or any institution-affiliate party is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Board in connection with the granting of any application or other request by the credit union or any written agreement entered into with the Board, the Board may issue and serve upon the credit union or such party a notice of charges in respect thereof. . . In the event of such consent [by nonappearance], or if upon the record made at any such hearing, the Board shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Board may issue and serve upon the credit union or the institution-affiliated party an order to cease and desist from any such violation or practice.

- Reference: 12 U.S.C. § 1786(e)(1) (2017)

- A notice of intention to remove a director, committee member, officer, or other person from office or to prohibit his participation in the conduct of the affairs of an insured credit union, shall contain a statement of the facts constituting the grounds therefor, and shall fix a time and place at which a hearing will be held thereon. . . In the event of such consent [by nonappearance], or if upon the record made at any such hearing, the Board shall find that any of the grounds specified in such notice have been established, the Board may issue such orders of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the credit union, as it may deem appropriate.

- Reference: 12 U.S.C. § 1786(g)(4) (2017)

- Any hearing provided for in this section [termination of insured credit union status, cease and desist orders, removal or suspension from office]. . .shall be conducted in accordance with the provisions of chapter 5 of Title 5.
  - Reference: 12 U.S.C. § 1786(j)(1) (2017)
- If any claimant requests review under this subparagraph in lieu of filing or continuing any action under paragraph (6) and the Board agrees to such request [claims regarding liquidation], the Board shall consider the claim after opportunity for a hearing on the record.
  - Reference: 12 U.S.C. § 1787(b)(7)(A)

## **NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES**

### **Institute of Museum and Library Services**

*Date of Creation:* September 30, 1996<sup>425</sup>

*Statute:* 20 U.S.C. §§ 9101-9176 (2017)

*Authorizing Language:* There is established, within the National Foundation on the Arts and the Humanities, an Institute of Museum and Library Services.

- Reference: 20 U.S.C. § 9102(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* Subject to paragraph (2), the Director may appoint without regard to the provisions of Title 5 governing the appointment in the competitive service and may compensate without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title (relating to the classification and General Schedule pay rates), such technical and professional employees as the Director determines to be necessary to carry out the duties of the Institute. The number of employees appointed and compensated under paragraph (1) shall not exceed 1/5 the number of full-time regular or professional employees of the Institute.

- Reference: 20 U.S.C. § 9105(b)

*Limitation on Appointment:* Beginning with the first individual appointed to the position of Director after September 30, 1996, every second individual so appointed shall be appointed from among individuals who have special competence with regard to library and information services. Beginning with every second individual appointed to the position of Director after September 30, 1996, every second individual so appointed shall be appointed from among individuals who have special competence with regard to museum services.

- Reference: 20 U.S.C. § 9103(a)(3) (2017)
- [The Deputy Director of Library Services] shall be appointed by the Director from among individuals who have a graduate degree in library science and expertise in library and information services.
  - Reference: 20 U.S.C. § 9104 (2017)
- [The Deputy Director of Museum Services] shall be appointed by the Director from among individuals who have expertise in museum services.
  - Reference: 20 U.S.C. § 9104 (2017)

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<sup>425</sup> Museum and Library Services Act, Pub. L. 104-208, 110 Stat. 3009 (1996).

- The Museum and Library Services Board shall be composed of the following: . . . Ten members appointed. . . from among individuals who are citizens of the United States and who are specially qualified by virtue of their education, training, or experience in the area of library services, or their commitment to library; Ten members appointed. . . from among individuals who are citizens of the United States and who are specially qualified by virtue of their education, training, or experience in the area of museum services, or their commitment to museums. Of the members of the Museum and Library Services Board appointed under paragraph (1)(D) [library members] five shall be professional librarians or information specialists, of whom not less than one shall be knowledgeable about electronic information and technical aspects of library and information services and sciences and not less than one other shall be knowledgeable about the library and information service needs of underserved communities and the remainder shall have special competence in, or knowledge of, the needs for library and information services in the United States. Of the members of the Museum and Library Services Board appointed under paragraph (1)(E) [museum members] five shall be museum professionals who are or have been affiliated with resources that, collectively, are broadly representatives of the curatorial, conservation, education, and cultural resources of the United States or museums that, collectively, are broadly representative of various types of museums, including museums relating to science, history, technology, art, zoos, botanical gardens, and museums designed for children and the remainder shall be individuals recognized for their broad knowledge, expertise, or experience in museums or commitment to museums. Members of the Museum and Library Services Board shall be appointed to reflect persons from various geographic regions of the United States. The Museum and Library Services Board may not include, at any time, more than three appointive members from a single State. In making such appointments, the President shall give due regard to equitable representation of women, minorities, and persons with disabilities who are involved with museums and libraries.

- Reference: 20 U.S.C. § 9105a(b) (2017)

*Party Balancing:* N/A

*Fixed Terms:* The Director shall serve for a term of 4 years.

- Reference: 20 U.S.C. § 9103(a)(2) (2017)
- Each member of the Museum and Library Services Board appointed under subparagraph (D) or (E) [library and museum members] shall serve for a term of 5 years.
- Reference: 20 U.S.C. § 9105a(c)(1) (2017)

*Staggered Terms:* N/A

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The Institute shall be headed by a Director, appointed by the President, by and with the advice and consent of the Senate.

- Reference: 20 U.S.C. § 9103(a)(1) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The Institute is authorized to solicit, accept, receive, and invest in the name of the United States, gifts, bequests, or devises of money and other property

or services and to use such property or services in furtherance of the functions of the Institute. Any proceeds from such gifts, bequests, or devises, after acceptance by the Institute, shall be paid by the donor or the representative of the donor to the Director, the Director shall enter the proceeds in a special-interest bearing account to the credit of the Institute for the purposes specified in each case.

- Reference: 20 U.S.C. § 9106 (2017)

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* The Museum and Library Services Board shall advise the Director on general policies with respect to the duties, powers, and authority of the Institute relating to museum, library, and information services.

- Reference: 20 U.S.C. § 9105a(d)
- The Director, with the advice of the Museum and Library Services Board, may annually award national awards and medals for library and museum services to outstanding libraries and museums that have made significant contributions to service their communities.
  - Reference: 20 U.S.C. § 9107 (2017)
- The Director, subject to the policy advice of the Museum and Library Services Board, may enter into arrangements, including grants, contracts, cooperative agreements, and other forms of assistance, with museums, States, local governments, and other entities as the Director considers appropriate.
  - Reference: 20 U.S.C. § 9173(a) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **National Endowment for the Arts**

*Date of Creation:* September 29, 1965<sup>426</sup>

*Statute:* 20 U.S.C. §§ 951-960 (2017)

*Authorizing Language:* There is established within the Foundation a National Endowment for the Arts.

- Reference: 20 U.S.C. § 954(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* [The 19 PAS members of the National Council on the Arts] shall be selected from among private citizens of the United States who are widely recognized for their broad knowledge of, or expertise in, or for their profound interest in the arts and have established records of distinguished service, or achieved eminence, in the arts so as to include practicing artists, civil cultural leaders, members of the museum profession, and others who are professionally engaged in the arts and so as collectively to provide an appropriate distribution of membership among major art fields and interested citizen groups.

- Reference: 20 U.S.C. § 955(b)(1)(C) (2017)

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<sup>426</sup> National Foundation on the Arts and the Humanities Act of 1965, Pub. L. 89-209, 79 Stat. 845 (1965).

*Party Balancing:* N/A

*Fixed Terms:* The term of office of the Chairperson shall be four years and the Chairperson shall be eligible for reappointment.

- Reference: 20 U.S.C. § 954(b)(2) (2017)
- Each member [of the National Council on the Arts] appointed under subsection (b)(1)(C) [PAS members] shall hold office for a term of six years.
  - Reference: 20 U.S.C. § 954(c) (2017)

*Staggered Terms:* N/A

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* Upon expiration of the Chairperson's term of office the Chairperson shall serve until the Chairperson's successor shall be been appointed and shall have qualified.

- Reference: 20 U.S.C. § 954(b)(2) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* The Endowment shall be headed by a chairperson, to be known as the Chairperson of the National Endowment for the Arts, who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 20 U.S.C. § 954(b)(1) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The Chairperson of the National Endowment for the Arts. . . shall have authority. . . in the discretion of the Chairperson of an Endowment, after receiving the recommendation of the National Council of that Endowment, to receive money and other property donated, bequeathed, or devised to that Endowment with or without a condition or restriction, including a condition that the Chairperson use other funds of that Endowment for the purposes of the gift, except that a Chairperson may receive a gift without a recommendation from the Council to provide support for any application or project which can be approved without Council recommendation under the provisions of sections 955(f) and 957(f) of this title, and may receive a gift of \$15,000, or less, without Council recommendation in the event the Council fails to provide such recommendation within a reasonable period of time, and to use, sell, or otherwise dispose of such property for the purpose of carrying out sections 954(c) and 956(c) of this title.

- Reference: 20 U.S.C. § 959(a)(2) (2017)
- The National Endowment for the Arts. . . [is] on and after August 2, 2005, authorized to solicit, accept, receive, and invest in the name of the United States, gifts, bequests, or devises of money and other property or services and to use such in furtherance of the functions of the National Endowment for the Arts. . . Any proceeds from such gifts, bequests, or devises, after acceptance by the National Endowment for the Arts. . . shall be paid by the donor or the representative of the donor to the Chairman.
  - Reference: 20 U.S.C. §959a (2017)

*Reporting Requirements:* In case of publications under paragraph (10) of this subsection [miscellaneous relevant projects] such publications may be supported without regard for the provisions of section 501 of Title 44 [regarding government printing] only if the Chairperson consults with the Joint Committee on Printing of the Congress and the Chairperson submits to the Committee on Labor and Human Resources of the Senate and

the Committee on Education and Labor of the House of Representatives a report justifying any exemption from such section 501.

- Reference: 20 U.S.C. § 954(c) (2017)
- Such system [of national information and data collection and public dissemination on the arts] shall be used, along with summary of the data submitted with State plans under subsection (g), to prepare a periodic report on the state of the arts in the Nation. . . The state of the arts report shall be submitted to. . .the Congress. . .not later than October 1, 1992, and quadrennially thereafter.
  - Reference: 20 U.S.C. § 954(q) (2017)
- The Chairperson of the National Endowment for the Arts. . .shall. . .submit an annual report to the President for transmittal to the Congress on or before the 15<sup>th</sup> day of April of each year. The report shall summarize the activities of the Endowment for the preceding year, and may include such recommendations as the Chairperson deems appropriate.
  - Reference: 20 U.S.C. § 959(d) (2017)

*Review Commissions:* None

*Advisory Commissions:* The Chairperson, with the advice of the National Council on the Arts, is authorized to establish and carry out a program of contracts with, or grants-in-aid or loans to, groups or, in appropriate cases, individuals of exceptional talent engaged in or concerned with the arts, for the purpose of enabling them to provide or support [the arts].

- Reference: 20 U.S.C. § 954(c) (2017)
- The Chairperson, with the advice of the National Council on the Arts, is authorized to establish and carry out a program of grants-in-aid to assist the several States in supporting existing projects and productions which meet the standards enumerated in subsection (c) of this section, and in developing projects and productions in the arts in such a manner as will furnish adequate programs, facilities, and services in the arts to all the people and communities in each of the several States.
  - Reference: 20 U.S.C. § 954(g) (2017)
- The Chairperson of the National Endowment for the Arts, with the advice of the National Council on the Arts, is authorized, in accordance with the provisions of this subsection, to establish and carry out a program of contracts with, or grants-in-aid to, public agencies and private nonprofit organizations, on a national, State, or local level, for the purpose of strengthening quality.
  - Reference: 20 U.S.C. § 954(p)(1) (2017)
- The Chairperson of the National Endowment for the Arts, with the advice of the National Council on the Arts, is authorized in accordance with this subsection, to establish and carry out a program of contracts with, or grants to, States for the purposes of [broadening arts access].
  - Reference: 20 U.S.C. § 954(p)(2) (2017)
- In order to provide assistance and counsel concerning arts education, the Chairperson shall appoint an advisory council on arts education.
  - Reference: 20 U.S.C. § 954a(c) (2017)
- The [Federal Council on the Arts and the Humanities] shall advise and consult with the Chairperson of the National Endowment for the Arts. . .on major problems arising in carrying out the purposes of the Foundation.
  - Reference: 20 U.S.C. § 958 (2017)

- The Chairperson of the National Endowment for the Arts shall utilize advisory panels to review applications, and to make recommendations to the National Council on the Arts in all cases except cases in which the Chairperson exercises authority delegated under section 955(f) of this title.

- Reference: 20 U.S.C. § 959(c) (2017)

*Action Require Outside Approval:* Any loans made by the Chairperson under this subsection shall be made in accordance with terms and conditions approved by the Secretary of the Treasury.

- Reference: 20 U.S.C. § 954(c) (2017)

*Legislative Veto:* None

*Adjudication:* If, after reasonable notice and opportunity for a hearing on the record, the Chairperson determines that a recipient of financial assistance provided under this section by the Chairperson or any non-Federal entity, used such financial assistance for a project, production, workshop, or program that is determined to be obscene, then the Chairperson shall require that until such recipient repays such assistance (in such amount, and under such terms and conditions, as the Chairperson determines to be appropriate) to the Endowment; no subsequent financial assistance be provided under this section to such recipient.

- Reference: 20 U.S.C. § 954(l)(1) (2017)

### **National Endowment for the Humanities**

*Date of Creation:* September 29, 1965<sup>427</sup>

*Statute:* 20 U.S.C. §§ 951-960 (2017)

*Authorizing Language:* There is established within the Foundation the National Endowment for the Humanities.

- Reference: 20 U.S.C. § 956(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* [The 26 PAS members on the National Council on the Humanities] shall be individuals who (1) are selected from among private citizens of the United States who are recognized for their broad knowledge of, expertise in, or commitment to the humanities, and (2) have established records of distinguished service and scholarship or creativity and in a manner which will provide a comprehensive representation of the views of scholars and professional practitioners in the humanities and of the public throughout the United States.

- Reference: 20 U.S.C. § 957(b) (2017)

*Party Balancing:* N/A

*Fixed Terms:* The term of office of the Chairperson shall be four years, and the Chairperson shall be eligible for reappointment.

- Reference: 20 U.S.C. § 956(b)(2) (2017)
- Each member [of the National Council on the Humanities] shall hold office for a term of six years].
  - Reference: 20 U.S.C. § 957(c) (2017)

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<sup>427</sup> National Foundation on the Arts and the Humanities Act of 1965, Pub. L. 89-209, 79 Stat. 845 (1965).

*Staggered Terms:* N/A

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* Upon the expiration of the Chairperson's term of office the Chairperson shall serve until the Chairperson's successor shall have been appointed and shall have qualified.

- Reference: 20 U.S.C. § 956(b)(2) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* The Endowment shall be headed by a chairperson, who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 20 U.S.C. § 956(b)(1) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The Chairperson of the National Endowment for the Humanities. . . shall have authority. . . in the discretion of the Chairperson of an Endowment, after receiving the recommendation of the National Council of that Endowment, to receive money and other property donated, bequeathed, or devised to that Endowment with or without a condition or restriction, including a condition that the Chairperson use other funds of that Endowment for the purposes of the gift, except that a Chairperson may receive a gift without a recommendation from the Council to provide support for any application or project which can be approved without Council recommendation under the provisions of sections 955(f) and 957(f) of this title, and may receive a gift of \$15,000, or less, without Council recommendation in the event the Council fails to provide such recommendation within a reasonable period of time, and to use, sell, or otherwise dispose of such property for the purpose of carrying out sections 954(c) and 956(c) of this title.

- Reference: 20 U.S.C. § 959(a)(2) (2017)
- The National Endowment for the Humanities [is] on and after August 2, 2005, authorized to solicit, accept, receive, and invest in the name of the United States, gifts, bequests, or devises of money and other property or services and to use such in furtherance of the functions of the. . . National Endowment for the Humanities. Any proceeds from such gifts, bequests, or devises, after acceptance by the. . . National Endowment for the Humanities, shall be paid by the donor or the representative of the donor to the Chairman.

*Reporting Requirements:* In the case of publications under clause (8) of this subsection such publications may be supported without regard for the provisions of section 501 of Title 44 [government printing] only if the Chairperson consults with the Joint Committee on Printing of the Congress and the Chairperson submits to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a report justifying any exemption from such section 51.

- Reference: 20 U.S.C. § 956(c) (2017)
- Such system [to develop and implement a practical system of national information and data collection and public dissemination of the humanities] shall be used, along with a summary of the data submitted with plans under subsection (f), to prepare a report on the state of the humanities in the Nation. . . The state of the humanities report shall be

submitted to . . .the Congress. . .not later than October 1, 1992, and quadrennially thereafter.

- Reference: 20 U.S.C. § 956(k) (2017)
- The Chairperson of the National Endowment for the Humanities shall. . .submit an annual report to the President for transmittal to the Congress on or before the 15<sup>th</sup> day of April of each year. The report shall summarize the activities of the Endowment for the preceding year, and may include such recommendations as the Chairperson deems appropriate.
  - Reference: 20 U.S.C. § 959(d) (2017)

*Review Commissions:* None

*Advisory Commissions:* The Chairperson, with the advice of the National Council on the Humanities, is authorized to enter in arrangements, including contracts, grants, loans, and other forms of assistance, to [promote the humanities].

- Reference: 20 U.S.C. § 956(c) (2017)
- The Chairperson, with the advice of the National Council on the Humanities, is authorized, in accordance with the provisions of this subsection, to establish and carry out a program of grants-in-aid in each of the several States.
  - Reference: 20 U.S.C. § 956(f)(1) (2017)
- The Chairperson of the National Endowment for the Humanities, with the advice of the National Council on the Humanities, is authorized, in accordance with the provisions of this subsection, to establish and carry out a program of contracts with, or grants-in-aid to, public agencies and private nonprofit organizations for the purpose of [supporting the humanities].
  - Reference: 20 U.S.C. § 956(h) (2017)
- The [Federal Council on the Arts and the Humanities] shall advise and consult with the . . .Chairperson of the National Endowment for the Humanities on major problems arising in carrying out the purposes of the Foundation.
  - Reference: 20 U.S.C. § 958 (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **NATIONAL INSTITUTE OF BUILDING SCIENCES**

*Date of Creation:* August 22, 1974<sup>428</sup>

*Statute:* 12 U.S.C. § 1701j-2 (2017)

*Authorizing Language:* There is authorized to be established, for the purposes described in subsection (a)(3) of this section, an appropriate nonprofit, nongovernmental instrument to be known as the National Institute of Building Sciences, which shall not be an agency or establishment of the United States Government.

- Reference: 12 U.S.C. § 1701j-2(b)(1) (2017)

*Commissioners/Board Members:* The Institute shall have a Board of Directors consisting of not less than 15 nor more than 21 members, appointed by the President of the United States by and with the advice and consent of the Senate.

- Reference: 12 U.S.C. § 1701j-2(c)(1) (2017)

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<sup>428</sup> Housing and Community Development Act of 1974, Pub. L. 93-383, 88 Stat. 633 (1974).

*Quorum Rules:* None

*Agency Specific Personnel:* None<sup>429</sup>

*Limitation on Appointment:* The Board shall be representative of the various segments of the building community, of the various regions of the country, and of the consumers who are or would be affected by the actions taken in the exercise of the functions and responsibilities of the Institute, and shall include (A) representatives of the construction industry, including representatives of construction labor organizations, product manufacturers, and builders, housing management experts, and experts in building standards, codes, and fire safety, and (B) members representative of the public interest in such numbers as may be necessary to assure that a majority of the members of the Board represent the public interest and that there is adequate consideration by the Institute of consumer interests in the exercise of its functions and responsibilities. Those representing the public interest on the Board shall include architects, professional engineers, officials of Federal, State, and local agencies, and representatives of consumer organizations. Such members of the Board shall hold no financial interest or membership in, nor be employed by, or receive other compensation from, any company, association or other group associated with the manufacture, distribution, installation, or maintenance of specialized building products, equipment, systems, subsystems, or other construction materials and techniques for which there are available substitutes.

- Reference: 12 U.S.C. § 1701j-2(c)(1) (2017)
- No member shall be eligible to serve in excess of three consecutive terms of three years each.
  - Reference: 12 U.S.C. § 1701j-2(c)(3) (2017)
- The [Advanced Building Technology] Council shall be comprised. . . from among representatives of the various segments of the nationwide building community that have extensive experience in building industries, including, but not limited to product manufacturers; experts in the fields of health, fire hazards, and safety; and independent representatives of the public interest such as architects, professional engineers, and representatives of consumer organizations, except that serving members of the National Institute of Building Sciences Advisory Council shall not be eligible to serve simultaneously on the Council.
  - Reference: 12 U.S.C. § 1701j-2(h)(3) (2017)

*Party Balancing:* None

*Fixed Terms:* The term of office of each member of the initial and succeeding Boards shall be three years.

- Reference: 12 U.S.C. § 1701j-2(c)(2) (2017)

*Staggered Terms:* The terms of office of members first taking office shall begin on the date of incorporation and shall expire, as designated at the time of their appointment, one-third at the end of one year, one-third at the end of two years, and one-third at the end of the three years.

- Reference: 12 U.S.C. § 1701j-2(c)(3) (2017)

*For Cause:* None

*Serve President:* None

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<sup>429</sup> Because the Institute is not considered an agency or establishment of the United States Government, civil service laws do not apply.

*Continuation until Replacement:* A member whose term has expired may serve until his successor has qualified.

- Reference: 12 U.S.C. § 1701j-2(c)(3) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* The President shall designate one of the members appointed to the initial Board as Chairman; thereafter, the members of the initial and succeeding Boards shall annually elect one of their number as Chairman. . . Terms of the Chairman. . . shall be for one year and no individual shall serve as Chairman. . . for more than two consecutive terms.

- Reference: 12 U.S.C. § 1701j-2(c)(5) (2017)

*OMB Review:* None<sup>430</sup>

*Independent Litigating:* None<sup>431</sup>

*Independent Sources of Funding:* None

*Reporting Requirements:* The Institute shall submit an annual report for the preceding fiscal year to the President for transmittal to the Congress within sixty days of its receipt. The report shall include a comprehensive and detailed report of the Institute's operations, activities, financial condition, and accomplishments under this section and may include such recommendations as the Institute deems appropriate.

- Reference: 12 U.S.C. § 1701j-2(j) (2017)

*Review Commissions:* None

*Advisory Commissions:* The Institute shall establish, with the advice and assistance of the Academies-Research Council and other agencies and organizations which are knowledgeable in the field of building technology, a Consultative Council. . . so as to insure a direct line of communication between such groups and the Institute and a vehicle for representative hearings on matters before the Institute.

- Reference: 12 U.S.C. § 1701j-2(c)(8) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **NATIONAL LABOR RELATIONS BOARD**

*Date of Creation:* July 5, 1935<sup>432</sup>

*Statute:* 29 U.S.C. §§ 151-169 (2017)

*Authorizing Language:* The National Labor Relations Board created by this subchapter prior to its amendment by the Labor Management Relations Act, 1947, is continued as an agency of the United States.

- Reference: 29 U.S.C. § 153(a) (2017)

*Commissioners/Board Members:* The Board shall consist of five instead of three members, appointed by the President by and with the advice and consent of the Senate.

- Reference: 29 U.S.C. § 153(a) (2017)

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<sup>430</sup> Because the Institute is not considered an agency or establishment of the United States Government, it is not subject to OMB rule review.

<sup>431</sup> Because the Institute is not considered an agency or establishment of the United States Government, the Attorney General does not have jurisdiction over its litigation.

<sup>432</sup> National Labor Relations Act, Pub. L. No. 198, 49 Stat. 449 (1935).

*Quorum Rules:* A vacancy in the Board shall not impair the right of the remaining members to exercise all the powers of the Board, and three members of the Board shall, at all times, constitute a quorum of the Board.

- Reference: 29 U.S.C. § 153(b) (2017)

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* None

*Fixed Terms:* [The members] shall be appointed for terms of five years each.

- Reference: 29 U.S.C. § 153(a) (2017)
- There shall be a General Counsel of the Board who shall be appointed. . .for a term of four years.
  - Reference: 29 U.S.C. § 153(d) (q2017)

*Staggered Terms:* Of the two additional members so provided for, one shall be appointed for a term of five years and the other for a term of two years.

- Reference: 29 U.S.C. § 153(a) (2017)

*For Cause:* Any member of the Board may be removed by the President, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause.

- Reference: 29 U.S.C. § 153(a) (2017)

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The President shall designate one member to serve as Chairman of the Board.

- Reference: 29 U.S.C. § 153(a) (2017)

*OMB Review:* None<sup>433</sup>

*Independent Litigating:* Attorneys appointed under this section may, at the direction of the Board, appear for and represent the Board in any case in court.

- Reference: 29 U.S.C. § 154(a) (2017)

*Independent Sources of Funding:* None

*Reporting Requirements:* The Board shall at the close of each fiscal year make a report in writing to Congress. . .summarizing significant case activities and operations for that fiscal year.

- Reference: 29 U.S.C. § 153(c) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:*<sup>434</sup> No administrative law judge's report shall be reviewed, either before or after its publication, by any person other than a member of the Board or his legal assistance, and no administrative law judge shall advise or consult with the Board with respect to exceptions taken to his findings, rulings or recommendations.

- Reference: 29 U.S.C. § 154(a) (2017)

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<sup>433</sup> The National Labor Relations Board is identified as an "independent regulatory agency" and thus is exempt from OMB rule review. See Exec. Order No. 12866, 58 Fed. Reg. 51735 (1993); 44 U.S.C. § 3502(5) (2017).

<sup>434</sup> Employs administrative law judges. Association of Administrative Law Judges. "Agencies Employing Administrative Law Judges," <http://www.aalj.org/agencies-employing-administrative-law-judges> (accessed October 30, 2017).

- The findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive [with respect to investigation of unfair labor practices petition for review].
  - Reference: 29 U.S.C. § 160(e) (2017)
- The findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall in like manner be conclusive [with respect to investigation of unfair labor practices petition to court].
  - Reference: 29 U.S.C. § 160(f) (2017)
- The Board, or any member thereof, shall upon application of any party to such proceedings [all hearings and investigations], forthwith issue to such party subpoenas requiring the attendance and testimony of witnesses or the production of any evidence in such proceedings or investigation requested in such application.
  - Reference: 29 U.S.C. § 161(1) (2017)

### **NATIONAL MEDIATION BOARD**

*Date of Creation:* June 21, 1934<sup>435</sup>

*Statute:* 45 U.S.C. §§ 151-165 (2017)

*Authorizing Language:* There is established, as an independent agency in the executive branch of the Government, a board to be known as the “National Mediation Board.”

- Reference: 45 U.S.C. § 154 (2017)

*Commissioners/Board Members:* [The Board shall] be composed of three members appointed by the President, by and with the advice and consent of the Senate.

- Reference: 45 U.S.C. § 154 (2017)

*Quorum Rules:* Vacancies in the Board shall not impair the powers nor affect the duties of the Board nor of the remaining members of the Board. Two of the members in office shall constitute a quorum for the transaction of the business of the Board.

- Reference: 45 U.S.C. § 154 (2017)

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* Not more than two of [the members] shall be of the same political party.

- Reference: 45 U.S.C. § 154 (2017)

*Fixed Terms:* The terms of office of all successors shall expire three years after the expiration of the terms for which their predecessors were appointed.

- Reference: 45 U.S.C. § 154 (2017)

*Staggered Terms:* Each member of the Mediation Board in office on January 1, 1965, shall be deemed to have been appointed for a term of office which shall expire on July 1 of the year his term would have otherwise expired.

- Reference: 45 U.S.C. § 154 (2017)

*For Cause:* A member of the Board may be removed by the President for inefficiency, neglect of duty, malfeasance in office, or ineligibility, but for no other cause.

- Reference: 45 U.S.C. § 154 (2017)

*Serve President:* None

*Continuation until Replacement:* None

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<sup>435</sup> Railway Labor Act, Pub. L. No. 442, 48 Stat 1185 (1934).

*Acting Service Rules:* None

*Who is Head of Agency:* The Mediation Board shall annually designate a member to act as chairman.

- Reference: 45 U.S.C. § 154 (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* The Board shall make an annual report to Congress.

- Reference: 45 U.S.C. § 154 (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **NATIONAL TRANSPORTATION SAFETY BOARD**

*Date of Creation:* October 15, 1966<sup>436</sup>

*Statute:* 49 U.S.C. §§ 1101-1155 (2017)

*Authorizing Language:* The National Transportation Safety Board is an independent establishment of the United States Government.

- Reference: 49 U.S.C. § 1111(a) (2017)

*Commissioners/Board Members:* The Board is composed of 5 members appointed by the President, by and with the advice and consent of the Senate.

- Reference: 49 U.S.C. § 1111(b) (2017)

*Quorum Rules:* Three members of the Board are a quorum in carrying out duties and powers of the Board.

- Reference: 49 U.S.C. § 1111(f) (2017)

*Agency Specific Personnel:* Subject to the requirements of this section and notwithstanding paragraphs (1) and (2) of section 5542(a) of title 5, for an employee of the Board whose basic pay is at a rate which equals or exceeds the minimum rate of basic pay for GS-10 of the General Schedule, the Board may establish an overtime hourly rate of pay for the employee with respect to work performed at the scene of an accident (including travel to or from the scene) and other work that is critical to an accident investigation in an amount equal to one and one-half times the hourly rate of basic pay of the employee. All of such amount shall be considered premium pay.

- Reference: 49 U.S.C. § 1113(g) (2017)

*Limitation on Appointment:* At least 3 members shall be appointed on the basis of technical qualification, professional standing, and demonstrated knowledge in accident reconstruction, safety engineering, human factors, transportation safety, or transportation regulation.

- Reference: 49 U.S.C. § 1111(b) (2017)

*Party Balancing:* Not more than 3 members may be appointed from the same political party.

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<sup>436</sup> The NTSB was originally established within the Department of Transportation. Department of Transportation Act, Pub. L. No. 89-670, 80 Stat. 931 (1966). The agency became an independent establishment in 1974. National Transportation Safety Act of 1974, Pub. L. No. 93-633, 88 Stat. 2156 (1974).

- Reference: 49 U.S.C. § 1111(b) (2017)

*Fixed Terms:* The term of office of each member is 5 years.

- Reference: 49 U.S.C. § 1111(c) (2017)

*Staggered Terms:* None

*For Cause:* The President may remove a member for inefficiency, neglect of duty, or malfeasance in office.

- Reference: 49 U.S.C. § 1111(c) (2017)

*Serve President:* None

*Continuation until Replacement:* When the term of office of a member ends, the member may continue to serve until a successor is appointed and qualified.

- Reference: 49 U.S.C. § 1111(c) (2017)

*Acting Service Rules:* When the Chairman is absent or unable to serve or when the position of Chairman is vacant, the Vice Chairman acts as Chairman.

- Reference: 49 U.S.C. § 1111(d) (2017)

*Who is Head of Agency:* The President shall designate, by and with the advice and consent of the Senate, a Chairman of the Board. . .The terms of office of. . .the Chairman. . .[is] 2 years. . .The Chairman is the chief executive and administrative officer of the Board.

- Reference: 49 U.S.C. § 1111(d)-(e) (2017)

*OMB Review:* When the Board submits to the President or the Director of the Office of Management and Budget a budget estimate, budget request, supplemental budget estimate, other budget information, a legislative recommendation, prepared testimony for congressional hearings, or comments on legislation, the Board must submit a copy to Congress at the same time. An officer, department, agency, or instrumentality of the Government may not require the Board to submit the estimate, request, information, recommendation, testimony, or comments to another officer, department, agency, or instrumentality of the Government for approval, comment, or review before being submitted to Congress.<sup>437</sup>

- Reference: 49 U.S.C. § 1113(c) (2017)

*Independent Litigating:* The National Transportation Safety Board may bring a civil action in a district court of the United States against a person to enforce section 1132, 1134(b) or (f)(1) (related to an aircraft accident), 1136(g)(2), or 1155(a) of this title or a regulation prescribed or order issued under any of those sections.

- Reference: 49 U.S.C. § 1151(a) (2017)

*Independent Sources of Funding:* The Board may. . .accept gifts of money and other property.

- Reference: 49 U.S.C. § 1113(b)(1)(G) (2017)
- The Board shall deposit in the Treasury amounts received under paragraph (1)(l) of this subsection [fees collected for provision of facilities, accident-related and technical services or training in accident investigation theory and techniques] to be credited as offsetting collections to the appropriation of the Board.
  - Reference: 49 U.S.C. § 1113(b)(2) (2017)

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<sup>437</sup> See also, Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget “Bypass” Authorities (Feb. 20, 2001), *available at* <http://www.citizen.org/documents/OMBDocument1.pdf>.

- The Board shall deposit in the Treasury amounts received under paragraph (1) [fees collected for provision of copies of record, information, or investigation] to be credited to the appropriation of the Board as offsetting collections.
  - Reference: 49 U.S.C. § 1114(a)(1) (2017)
- The Board may impose and collect such fees, refunds, and reimbursements as it determines to be appropriate for services provided by or through the Board. Notwithstanding section 3302 of title 31, any fee, refund, or reimbursement collected under this subsection shall be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed or with which the refund or reimbursement is associated; shall be available for expenditure only to pay the costs of activities and services for which the fee is imposed or with which the refund or reimbursement is associated; and shall remain available until expended.
  - Reference: 49 U.S.C. § 1118(c) (2017)

*Reporting Requirements:* Not later than January 31, 2002, and annually thereafter, the Board shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House Transportation and Infrastructure Committee a report identifying the total amount of overtime payments made under this subsection in the preceding fiscal year, and the number of employees whose overtime pay under this subsection was limited in that fiscal year as a result of the 15 percent limit established by paragraph (2).

- Reference: 49 U.S.C. § 1113(g)(5) (2017)
- The National Transportation Safety Board shall report periodically to Congress, departments, agencies, and instrumentalities of the United States Government and State and local governmental authorities concerned with transportation, safety, and other interested persons. The report shall advocate meaningful responses to reduce the likelihood of transportation accidents similar to those investigated by the Board and propose corrective action to make the transportation of individuals as safe and free from risk of injury as possible, including action to minimize personal injuries that occur in transportation accidents.
  - Reference: 49 U.S.C. § 1116(a) (2017)
- The National Transportation Safety Board shall submit a report to Congress on July 1 of each year. The report shall include [summaries of accidents and investigations during the prior calendar year].
  - Reference: 49 U.S.C. § 1117 (2017)
- If on March 1 of each year the Board has not received the Secretary's report required by this subsection [regulatory status of recommendations made by the Board to the Secretary of Transportation], the Board shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the Secretary's failure to submit the required report.
  - Reference: 49 U.S.C. § 1135(e)(2) (2017)
- Within 90 days after the date on which the Secretary submits a report under this subsection [regulatory status of recommendations made by the Board to the Secretary of Transportation], the Board shall review the Secretary's report and transmit comments on the report to the . . . Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.
  - Reference: 49 U.S.C. § 1135(e)(3) (2017)

*Review Commissions:* None

*Advisory Commissions:* The Board may. . . appoint advisory committees composed of qualified private citizens and officials of the Government and State and local governments as appropriate.

- Reference: 49 U.S.C. § 1113(b)(1)(E) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* <sup>438</sup>The National Transportation Safety Board, and when authorized by it, a member of the Board, an administrative law judge employed by or assigned to the Board, or an officer or employee designated by the Chairman of the Board may conduct hearings to carry out this chapter, administer oaths, and require, by subpoena or otherwise, necessary witnesses and evidence.

- Reference: 49 U.S.C. § 1113(a)(1) (2017)

### **NORTHERN GREAT PLAINS REGIONAL AUTHORITY**

*Date of Creation:* May 13, 2002<sup>439</sup>

*Statute:* 7 U.S.C. §§ 2009bb-2009bb-13 (2017)

*Authorizing Language:* There is established the Northern Great Plains Regional Authority.

- Reference: 7 U.S.C. § 2009bb-1(a)(1) (2017)

*Commissioners/Board Members:* The Authority shall be composed of a Federal member, to be appointed by the President, by and with the advice and consent of the Senate; the Governor (or a designee of the Governor) of each State in the region that elects to participate in the Authority; a member of an Indian tribe. . .to be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 7 U.S.C. § 2009bb-1(a)(2) (2017)

*Quorum Rules:* A quorum of State members shall be required to be present for the Authority to make any policy decision, including a modification or revision of an Authority policy decision; approval of a State or regional development plan; and any allocation of funds among the States.

- Reference: 7 U.S.C. § 2009bb-1(c)(2) (2017)

*Agency Specific Personnel:* None

*Limitation on Appointment:* The Authority shall be composed of a Federal member. . .; the Governor (or a designee of the Governor) of each State in the region that elects to participate in the Authority; a member of an Indian tribe, who shall be a chairperson of an Indian tribe in the region or a designee of such a chairperson, to be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 7 U.S.C. § 2009bb-1(a)(2) (2017)

*Party Balancing:* None

*Fixed Terms:* None

*Staggered Terms:* None

*For Cause:* None

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<sup>438</sup> Employs administrative law judges. Association of Administrative Law Judges. “Agencies Employing Administrative Law Judges,” <http://www.aalj.org/agencies-employing-administrative-law-judges> (accessed October 30, 2017).

<sup>439</sup> Farm Security and Rural Investment Act of 2002, Pub. L. 107-171, 116 Stat. 134 (2002).

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* An alternate member shall vote in the case of the absence, death, disability, removal, or resignation of the Federal, State, or Indian tribe member for whom the alternate member is an alternate.

- Reference: 7 U.S.C. § 2009bb-1(c)(4) (2017)

*Who is Head of Agency:* The Authority shall be headed by the Federal member, who shall serve as the Federal cochairperson and as a liaison between the Federal Government and the Authority; a State cochairperson, who shall be a Governor of a participating State in the region and shall be elected by the State members for a term of not less than 1 year; and the member of an Indian tribe, who shall serve as the tribal cochairperson and as a liaison between the governments of Indian tribes in the region and the Authority.

- Reference: 7 U.S.C. § 2009bb-1(a)(3) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* In carrying out subsection (d), the Authority may . . . accept, use, and dispose of gifts or donations of services or real, personal, tangible, or intangible property.

- Reference: 7 U.S.C. § 2009bb-1(e)(8) (2017)
- The non-Federal share of the administrative expenses of the Authority shall be paid by non-Federal sources in the States that participate in the Authority.
  - Reference:

*Reporting Requirements:* Not later than 180 days after the end of each fiscal year, the Authority shall submit to the President and to Congress a report describing the activities carried out under this subchapter.

- Reference: 7 U.S.C. § 2009bb-11 (2017)

*Review Commissions:* None

*Advisory Commissions:* Northern Great Plains, Inc., a nonprofit corporation incorporated in the State of Minnesota to implement the recommendations of the Northern Great Plains Rural Development Commission established by the Northern Great Plains Rural Development Act shall serve as an independent, primary resource for the Authority on issues of concern to the region; shall advise the Authority on development of international trade; [and] may provide research, education, training, and other support to the Authority.

- Reference: 7 U.S.C. § 2009bb-4(d) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **NUCLEAR REGULATORY COMMISSION**

*Date of Creation:* October 11, 1974<sup>440</sup>

*Statute:* 42 U.S.C. §§ 5841-5891 (2017)

*Authorizing Language:* There is established an independent regulatory commission to be known as the Nuclear Regulatory Commission.

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<sup>440</sup> Energy Reorganization Act of 1974, Pub. L. No. 93-438, 88 Stat. 1233 (1974).

- Reference: 42 U.S.C. § 5841(a)(1) (2017)

*Commissioners/Board Members:* [The Commission] shall be composed of five members. .

.Members of the Commission shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 42 U.S.C. § 5841(a)(1); (b)(1) (2017)

*Quorum Rules:* A quorum for the transaction of business shall consist of at least three members present.

- Reference: 42 U.S.C. § 5841(a)(1) (2017)

*Agency Specific Personnel:* None

*Limitation on Appointment:* Each of [the members] shall be a citizen of the United States.

- Reference: 42 U.S.C. § 5841(a)(1) (2017)

*Party Balancing:* Appointments of members pursuant to this subsection shall be made in such a manner that not more than three members of the Commission shall be members of the same political party.

- Reference: 42 U.S.C. § 5841(b)(2) (2017)

*Fixed Terms:* Each member shall serve for a term of five years.

- Reference: 42 U.S.C. § 5841(c) (2017)

*Staggered Terms:* Of the five members first appointed to the Commission, one shall serve for one year, one for two years, one for three years, one for four years, and one for five years, to be designated by the President at the time of appointment.

- Reference: 42 U.S.C. § 5841(c) (2017)

*For Cause:* Any member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

- Reference: 42 U.S.C. § 5841(e) (2017)

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* The Chairman may from time to time designate any other member of the Commission as Acting Chairman to act in the place and stead of the Chairman during his absence.

- Reference: 42 U.S.C. § 5841(a)(1) (2017)

*Who is Head of Agency:* The President shall designate one member of the Commission as Chairman thereof to serve as such during the pleasure of the President. . .The Chairman of the Commission shall be the principal executive officer of the Commission.

- Reference: 42 U.S.C. § 5841(a)(1)-(2) (2017)

*OMB Review:* None<sup>441</sup>

*Independent Litigating:* None

*Independent Sources of Funding:* Moneys received by the Commission for the cooperative nuclear research program, services rendered by State governments, foreign governments, and international organizations, and the material and information access authorization programs, including criminal history checks under section 2169 of this title may be

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<sup>441</sup> The Nuclear Regulatory Commission is identified as an “independent regulatory agency” and thus is exempt from OMB rule review. See Exec. Order No. 12866, 58 Fed. Reg. 51735 (1993); 44 U.S.C. § 3502(5) (2017). See also, Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget “Bypass” Authorities (Feb. 20, 2001), *available at* <http://www.citizen.org/documents/OMBDocument1.pdf> (suggesting the NRC has informal legislative bypass authority).

retained and used for salaries and expenses associated with those activities, notwithstanding section 3302 of title 31, and shall remain available until expended.

- Reference: 42 U.S.C. § 5852(c) (2017)

*Reporting Requirements:* A report of the results of the [nuclear energy center site] survey shall be published and transmitted to the Congress. . .not later than one year from October 11, 1974. . .and shall be updated from time to time thereafter as the Commission, in its discretion, deems advisable.

- Reference: 42 U.S.C. § 5847(a)(4) (2017)
- The Commission shall submit to the Congress an annual report listing for the previous fiscal year any abnormal occurrences at or associated with any facility which is licensed or otherwise regulated pursuant to the Atomic Energy Act of 1954 as amended or pursuant to this chapter.
  - Reference: 42 U.S.C. § 5848 (2017)
- The Chairman of the Nuclear Regulatory Commission shall notify. . .the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Environment and Public works of the Senate, not later than 1 day after the Chairman begins performing functions under the authority of section 3 of Reorganization Plan No. 1 of 1980, or after a member of the commission who is delegated emergency functions under subsection (b) of that section begins performing those functions. Such notification shall include an explanation of the circumstances warranting the exercise of such authority. The Chairman shall report to the Committees, not less frequently than once each week, on the actions taken by the Chairman, or a delegated member of the Commission, under such authority, until the authority is relinquished. The Chairman shall notify the Committees not later than 1 day after such authority is relinquished. The Chairman shall submit the report required by section 3(d) of the Reorganization Plan No. 1 of 1980 to the Committees not later than 1 day after it was submitted to the Commission. This section shall be in effect in fiscal year 2015 and each subsequent fiscal year.
  - Reference: 42 U.S.C. § 5854 (2017)
- The Commission shall, as soon as practicable after the end of each fiscal year, make a report to the President for submission to the Congress on the activities of the Commission during the preceding fiscal year.
  - Reference: 42 U.S.C. § 5877(c) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:*<sup>442</sup> None

## **OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION**

*Date of Creation:* December 29, 1970<sup>443</sup>

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<sup>442</sup> Employs administrative law judges. Association of Administrative Law Judges. “Agencies Employing Administrative Law Judges,” <http://www.aalj.org/agencies-employing-administrative-law-judges> (accessed October 30, 2017).

<sup>443</sup> Occupational Safety and Health Act of 1970, Pub. L. No. 91-596, 84 Stat. 1590 (1970).

*Statute:* 29 U.S.C. §§ 651-678 (2017)

*Authorizing Language:* The Occupational Safety and Health Review Commission is hereby established.

- Reference: 29 U.S.C. § 661(a) (2017)

*Commissioners/Board Members:* The Commission shall be composed of three members who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 29 U.S.C. § 661(a) (2017)

*Quorum Rules:* For the purpose of carrying out its functions under this chapter, two members of the Commission shall constitute a quorum.

- Reference: 29 U.S.C. § 661(f) (2017)

*Agency Specific Personnel:* None

*Limitation on Appointment:* [The members] shall be appointed. . . from among persons who by reason of training, education, or experience are qualified to carry out the functions of the Commission under this chapter.

- Reference: 29 U.S.C. § 661(a) (2017)

*Party Balancing:* None

*Fixed Terms:* The terms of members of the Commission shall be six years.

- Reference: 29 U.S.C. § 661(b) (2017)

*Staggered Terms:* The members of the Commission first taking office shall serve, as designated by the President at the time of appointment, one for a term of two years, one for a term of four years, and one for a term of six years.

- Reference: 29 U.S.C. § 661(b) (2017)

*For Cause:* A member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

- Reference: 29 U.S.C. § 661(b) (2017)

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The President shall designate one of the members of the Commission to serve as Chairman.

- Reference: 29 U.S.C. § 661(a) (2017)

*OMB Review:* None<sup>444</sup>

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

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<sup>444</sup> The Occupational Safety and Health Review Commission is identified as an “independent regulatory agency” and thus is exempt from OMB rule review. See Exec. Order No. 12866, 58 Fed. Reg. 51735 (1993); 44 U.S.C. § 3502(5) (2017). See also, Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget “Bypass” Authorities (Feb. 20, 2001), available at <http://www.citizen.org/documents/OMBDocument1.pdf> (suggesting the NRC has informal legislative bypass authority).

*Adjudication:*<sup>445</sup> If an employer notifies the Secretary that he intends to contest a citation issued under section 658(a) of this title or notification issued under subsection (a) or (b) of this section, or if, within fifteen working days of the issuance of a citation under section 658(a) of this title, any employee or representative of employees files a notice with the Secretary alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable, the Secretary shall immediately advise the Commission of such notification, and the Commission shall afford an opportunity for a hearing (in accordance with section 554 of Title 5 but without regard to subsection (a)(3) of such section).

- Reference: 29 U.S.C. § 659(c) (2017)
- The Chairman. . . shall appoint such administrative law judges. . . to assist in the performance of the Commission’s functions.
  - Reference: 29 U.S.C. § 661(e) (2017)
- An administrative law judge appointed by the Commission shall hear, and make a determination upon, any proceeding instituted before the Commission and any motion in connection therewith, assigned to such administrative law judge by the Chairman of the Commission, and shall make a report of any such determination which constitutes his final disposition of the proceedings. The report of the administrative law judge shall become the final order of the Commission within thirty days after such report by the administrative law judge, unless within such period any Commission member has directed that such report shall be reviewed by the Commission.
  - Reference: 29 U.S.C. § 661(j) (2017)

## **OFFICE OF GOVERNMENT ETHICS**

*Date of Creation:* October 26, 1978<sup>446</sup>

*Statute:* 5 U.S.C. App. 4 §§ 401-408 (2017)

*Authorizing Language:* There is established an executive agency to be known as the Office of Government Ethics.

- Reference: 5 U.S.C. App. 4 § 401(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* Effective with respect to any individual appointed or reappointed by the President as Director on or after October 1, 1983, the term of service of the Director shall be five years.

- Reference: 5 U.S.C. App. 4 § 401(b) (2017)

*Staggered Terms:* N/A

*For Cause:* None

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<sup>445</sup> Employs administrative law judges. Association of Administrative Law Judges. “Agencies Employing Administrative Law Judges,” <http://www.aalj.org/agencies-employing-administrative-law-judges> (accessed October 30, 2017).

<sup>446</sup> Ethics in Government Act of 1978, Pub. L. No. 95-521, 92 Stat. 1824 (1978). The Office of Government Ethics was originally established as an office in the Office of Personnel Management, but became a stand-alone executive agency in 1988. Pub. L. No. 100-598, 102 Stat. 3031 (1988).

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* There shall be at the head of the Office of Government Ethics a Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 5 U.S.C. App. 4 § 401(b) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* The Director is authorized to accept and utilize on behalf of the United States, any gift, donation, or devise of money, use of facilities, personal property, or services for the purpose of aiding or facilitating the work of the Office of Government Ethics.

- Reference: 5 U.S.C. App. 4 § 403(b) (2017)

*Reporting Requirements:* The Director shall, no later than April 30 of each year in which the second session of a Congress begins, submit to the Congress a report containing a summary of the actions taken by the Director during a 2-year period ending on December 31 of the preceding year in order to carry out the Director's functions and responsibilities under this title and such other information as the Director may consider appropriate.

- Reference: 5 U.S.C. App. 4 § 408 (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **OFFICE OF PERSONNEL MANAGEMENT**

*Date of Creation:* October 13, 1978<sup>447</sup>

*Statute:* 5 U.S.C. §§ 1101-1105 (2017)

*Authorizing Language:* The Office of Personnel Management is an independent establishment in the executive branch.

- Reference: 5 U.S.C. § 1101 (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* The term of office of any individual appointed as Director shall be 4 years.

- Reference: 5 U.S.C. § 1102(a) (2017)

*Staggered Terms:* N/A

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* None

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<sup>447</sup> Civil Service Reform Act of 1978, Pub. L. No. 95-454, 92 Stat. 1111 (1978).

*Acting Service Rules:* The Deputy Director. . .shall act as Director during the absence or disability of the Director or when the office of Director is vacant.

- Reference: 5 U.S.C. § 1102(b) 92017)

*Who is Head of Agency:* There is at the head of the Office of Personnel Management a Director of the Office of Personnel Management appointed by the President, by and with the advice and consent of the Senate.

- Reference: 5 U.S.C. § 1102(a) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **OFFICE OF SPECIAL COUNSEL**

*Date of Creation:* October 13, 1978<sup>448</sup>

*Statute:* 5 U.S.C. §§ 1211-1219 (2017)

*Authorizing Language:* There is established the Office of Special Counsel.

- Reference: 5 U.S.C. § 1211(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None

*Limitation on Appointment:* The Special Counsel shall be an attorney who, by demonstrated ability, background, training, or experience, is especially qualified to carry out the functions of the position.

- Reference: 5 U.S.C. § 1211(b) (2017)

*Party Balancing:* N/A

*Fixed Terms:* The Special Counsel shall be appointed. . .for a term of 5 years.

- Reference: 5 U.S.C. § 1211(b) (2017)

*Staggered Terms:* N/A

*For Cause:* The Special Counsel may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office.

- Reference: 5 U.S.C. § 1211(b) (2017)

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* The Special Counsel may continue to serve beyond the expiration of the term until a successor is appointed and has qualified, except that the Special Counsel may not continue to serve for more than one year after the date on which the term of the Special Counsel would otherwise expire under this subsection.

- Reference: 5 U.S.C. § 1211(b) (2017)

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<sup>448</sup> Civil Service Reform Act of 1978, Pub. L. No. 95-454, 92 Stat. 1111 (1978).

*Who is Head of Agency:* [The Office] shall be headed by the Special Counsel. . .The Special Counsel shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 5 U.S.C. § 1211 (2017)

*OMB Review:* Such information [information to Congress] shall be transmitted concurrently to the President and any other appropriate agency in the executive branch.<sup>449</sup>

- Reference: 5 U.S.C. § 1217 (2017)

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* Whenever the Special Counsel does not receive the report of the agency within the time prescribed in subsection (c)(2) of this section, the Special Counsel shall transmit a copy of the information which was transmitted to the agency head to . . .the congressional committees with jurisdiction over the agency which the disclosure involves together with a statement noting the failure of the head of the agency to file the required report.

- Reference: 5 U.S.C. § 1213(e)(4) (2017)
- With respect to any disclosure of information described in subsection (a) which involves foreign intelligence or counterintelligence information, if the disclosure is specifically prohibited by law or by Executive order, the Special Counsel shall transmit such information to . . .the Permanent Select Committee on Intelligence of the House of Representatives, and the Select Committee on Intelligence of the Senate.
  - Reference: 5 U.S.C. § 1213(j) (2017)
- The Special Counsel or any employee of the Special Counsel designated by the Special Counsel, shall transmit to the Congress on the request of any committee or subcommittee thereof, by report, testimony, or otherwise, information and the Special Counsel's views on functions, responsibilities, or other matters relating to the Office.
  - Reference: 5 U.S.C. § 1217 (2017)
- The Special Counsel shall submit an annual report to the Congress on the activities of the Special Counsel, including the number, types, and disposition of allegations of prohibited personnel practices filed with it, investigations conducted by it, cases in which it did not make a determination whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken within the 240-day period specified in section 1214(b)(2)(A)(i), and actions initiated by it before the Merit Systems Protection Board, as well as a description of the recommendations and reports made by it to other agencies pursuant to this subchapter, and the actions taken by agencies as a result of the reports or recommendations. The report required by this section shall include whatever recommendations for legislation or other action by Congress the Special Counsel may consider appropriate.
  - Reference: 5 U.S.C. § 1218 (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

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<sup>449</sup> See also, Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget "Bypass" Authorities (Feb. 20, 2001), available at <http://www.citizen.org/documents/OMBDocument1.pdf>.

*Legislative Veto:* None  
*Adjudication:* None

## **OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE**

*Date of Creation:* December 17, 2004<sup>450</sup>

*Statute:* 50 U.S.C. §§ 3001-3234 (2017)

*Authorizing Language:* There is an Office of the Director of National Intelligence.

- Reference: 50 U.S.C. § 3025(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* None<sup>451</sup>

*Limitation on Appointment:* Any individual nominated for appointment as Director of National Intelligence shall have extensive national security expertise.

- Reference: 50 U.S.C. § 3023(a)(1) (2017)
- The individual serving in the position of Director of National Intelligence shall not, while so serving, also serve as the Director of the Central Intelligence Agency or as the head of any other element of the intelligence community.
  - Reference: 50 U.S.C. § 3023(c) (2017)
- An individual nominated for appointed as Principal Deputy Director of National Intelligence shall have extensive national security experience and management expertise. The individual serving as Principal Deputy Director of National Intelligence shall not, while so serving, serve in an capacity in any other element of the intelligence community.
  - Reference: 50 U.S.C. § 3026(a)(3)-(4) (2017)
- An individual appointed as Director of Science and Technology shall have a professional background and experience appropriate for the duties of the Director of Science and Technology.
  - Reference: 50 U.S.C. § 3030(b) (2017)
- The nomination of an individual for appointment as Inspector General [of the Intelligence Community] shall be made. . . on the basis of integrity, compliance with security standards of the intelligence community, and prior experience in the field of intelligence or national security and no the basis of demonstrated ability in accounting, financial analysis, law, management analysis, public administration, or investigations.
  - Reference: 50 U.S.C. § 3033(c)(2) (2017)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

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<sup>450</sup> Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 108-458, 118 Stat. 3638 (2004).

<sup>451</sup> The Office of the Director of National Intelligence's employees are not considered employees for the purposes of Title 5. 5 U.S.C. § 5102(a)(1)(viii); (2) (2017).

*Who is Head of Agency:* There is a Director of National Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 50 U.S.C. § 3023(a)(1) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* The Director of National Intelligence shall report to . . .the Congress not later than 15 days after learning of any instance in which a departmental comptroller acts in a manner inconsistent with the law (including permanent statutes, authorization Acts, and appropriations Acts), or the direction of the Director of National Intelligence, in carrying out the National Intelligence Program.

- Reference: 50 U.S.C. § 3024(c)(7)(B) (2017)
- Any transfer or reprogramming of funds under this subsection shall be carried out in accordance with existing procedures applicable to reprogramming notifications for the appropriate congressional committees. Any proposed transfer or reprogramming for which notice is given to the appropriate congressional committees shall be accompanied by a report explaining the nature of the proposed transfer or reprogramming and how it satisfies the requirements of this subsection. In addition, the congressional intelligence committees shall be promptly notified of any transfer or reprogramming of funds made pursuant to this subsection in any case in which the transfer or reprogramming would not have otherwise required reprogramming notification under procedures in effect as of December 17, 2004.
  - Reference: 50 U.S.C. § 3024(d)(7) (2017)
- The Director of National Intelligence shall promptly provide notice of any transfer of personnel made pursuant to this paragraph to the congressional intelligence committees; the Committees on Appropriations of the Senate and the House of Representatives; in the case of the transfer of personnel to or from the Department of Defense, the Committees on Armed Services of the Senate and the House of Representatives; and in the case of the transfer of personnel to or from the Department of Justice, the Committees on the Judiciary of the Senate and the House of Representatives.
  - Reference: 50 U.S.C. § 3024(e)(1)(B) (2017)
- The Director of National Intelligence shall promptly provide notice of any transfer of personnel made pursuant to this paragraph to the congressional intelligence committees; in the case of the transfer of personnel to or from the Department of Defense, the Committees on Armed Services of the Senate and the House of Representatives; and in the case of the transfer of personnel to or from the Department of Justice, the Committees on the Judiciary of the Senate and the House of Representatives.
  - Reference: 50 U.S.C. § 3024(e)(2)(C) (2017)
- The Director of National Intelligence shall, in a timely manner, report to Congress any statute, regulation, policy, or practice that the Director believes impedes the ability of the Director to fully and effectively ensure maximum availability of access to intelligence information within the intelligence community consistent with the protection of the national security of the United States.
  - Reference: 50 U.S.C. § 3024(g)(4) (2017)
- The Director of National Intelligence shall submit to the congressional intelligence committees a notification of an authorization to exercise an authority referred to in

subparagraph (A) [acquisition authority] or an extension of such authorization that includes the written authorization referred to in subparagraph (B)(ii).

- Reference: 50 U.S.C. § 3024(n)(4)(G)(i) (2017)
- For each intelligence program within the National Intelligence Program for the acquisition of a major system, the Director of National Intelligence shall . . . periodically review and assess the progress made toward the achievement of the goals and milestones established in such plan and submit to Congress a report on the results of such review and assessment.
  - Reference: 50 U.S.C. § 3024(q)(1)(C) (2017)
- The Director of National Intelligence shall notify the congressional intelligence committees not later than 30 days after the date on which the Director grants authority to the head of a department or agency under this subsection [authority to fix basic pay outside of civil service].
  - Reference: 50 U.S.C. § 3024(s)(6)(A) (2017)
- The Director of National Intelligence. . . shall provide to . . . the congressional intelligence committees, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Foreign Relations of the Senate an addendum to each Nuclear proliferation Assessment Statement accompanying a civilian nuclear cooperation agreement, containing a comprehensive analysis of the country's export control system with respect to nuclear-related matters, including interactions with other countries of proliferation concern and the actual or suspected nuclear, dual-use, or missile-related transfers to such countries.
  - Reference: 50 U.S.C. § 3024(w) (2017)
- Not later than 7 days after the date the Director engages in fundraising authorized by this subsection [for the benefit of nonprofit organizations] or at the time the decision is made to participate in such fundraising, the Director shall notify the congressional intelligence committees of such fundraising.
  - Reference: 50 U.S.C. § 3024(y)(3) (2017)
- Not later than 20 days after the completion of a review or an investigation of any proposed investment into the United States for which the Director has proposed analytic materials, the Director shall submit to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives copies of such analytic materials, including any supplements or amendments to such analysis made by the Director.
  - Reference: 50 U.S.C. § 3024(z)(1) (2017)
- Not later than 60 days after the completion of consideration by the United States Government of any investment described in paragraph (1), the Director shall determine whether such investment will have an operational impact on the intelligence community, and, if so, shall submit a report on such impact to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.
  - Reference: 50 U.S.C. § 3024(z)(2) (2017)
- Not later than seven days after the date on which the Director exercises the authority under paragraph (1) [prohibit the Inspector General of the Intelligence Community from initiating, carrying out, or completing any investigation], the Director shall submit to the

congressional intelligence committees an appropriately classified statement of the reasons for the exercise of such authority.

- Reference: 50 U.S.C. § 3033(f)(2)
- Not later than 30 days after the date of receipt of a report under subparagraph (A) [report from IG], the Director shall transmit the report to the congressional intelligence committees together with any comments the Director considers appropriate. The Director shall transmit to the committees of the Senate and of the House of Representatives with jurisdiction over a department of the United States Government any portion of the report involving a component of such department simultaneously with submission of the report to the congressional intelligence committee.
  - Reference: 50 U.S.C. § 3033(k)(1)(C) (2017)
- The Director shall transmit to the congressional intelligence committees each report under subparagraph (A) [serious or flagrant problems reported by IG] within 7 calendar days of receipt of such report, together with such comments as the Director considers appropriate. The Director shall transmit to the committees of the Senate and the House of Representatives with jurisdiction over a department of the United States Government any portion of each report under subparagraph (A) that involves a problem, abuse, or deficiency related to a component of such department simultaneously with transmission of the report to the congressional intelligence committees.
  - Reference: 50 U.S.C. § 3033(k)(2)(B) (2017)
- The Director shall submit to the congressional intelligence committees any report or findings and recommendations of an investigation, inspection, audit, or review conducted by the office which has been requested by the Chairman or Vice Chairman or ranking minority member of either committee.
  - Reference: 50 U.S.C. § 3033(k)(4) (2017)
- Upon receipt of a transmittal from the Inspector General under subparagraph (B) [whistleblowing], the Director shall, within 7 calendar days of such receipt, forward such transmittal to the congressional intelligence committees, together with any comments the Director considers appropriate.
  - Reference: 50 U.S.C. § 3033(k)(5)(C) (2017)
- The Director of National Intelligence shall submit to the congressional intelligence Committees, the Committee on Appropriations of the Senate, and the Committee on Appropriations of the House of Representatives for each fiscal year a separate statement of the budget estimate transmitted pursuant to paragraph (1) [budget estimate by IG]; the amount requested by the Director for the Inspector General pursuant to paragraph (2)(A) [proposed IG budget sent to president]; the amount requested by the Director for the training of personnel of the Office of the Inspector General pursuant to paragraph (2)(B); the amount requested by the Director for support for the Council of the Inspectors General on Integrity and Efficiency pursuant to paragraph (2)(C); and the comments of the Inspector General under paragraph (2)(D), if any on the amounts requested pursuant to paragraph (2), including whether such amounts would substantially inhibit the Inspector General from performing the duties of the Office of Inspector General.
  - Reference: 50 U.S.C. § 3033(n)(3) (2017)
- The Director of the Defense Intelligence Agency may not expend more than five percent of the amounts made available to the Director under the National Intelligence Program for human intelligence and counterintelligence activities for a fiscal year for objects of a

confidential, extraordinary, or emergency nature in accordance with paragraph (1) during such fiscal year unless the Director notifies the congressional intelligence committees, the Committee on Armed Services of the Senate, and the Committee on Armed Services of the House of Representatives of the intent to expend the amounts and 30 days have passed from the date on which the Director notifies the [committees].

- Reference: 50 U.S.C. § 3038(c)(2) (2017)
- The Director of National Intelligence shall submit to the congressional intelligence committees a report on each national intelligence strategy required by subsection (a) not later than 45 days after the date of the completion of such strategy [beginning in 2017, and once every 4 years thereafter].
  - Reference: 50 U.S.C. § 3043a(c) (2017)
- The Director of National Intelligence shall, on an annual basis, submit to Congress a report on the employment of covered persons within each element of the intelligence community for the preceding fiscal year.
  - Reference: 50 U.S.C. § 3050(a) (2017)
- To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, the Director of National Intelligence. . . shall keep the congressional intelligence committees fully and currently informed of all intelligence activities, other than a covert action (as defined in section 3093(e) of this title), which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government, including any significant anticipated intelligence activity and any significant intelligence failure and furnish the congressional intelligence committees any information or material concerning intelligence activities (including the legal basis under which the intelligence activity is being or was conducted), other than covert actions, which is within their custody or control, and which is requested by either of the congressional intelligence committees in order to carry out its authorized responsibilities.
  - Reference: 50 U.S.C. § 3092(a) (2017)
- To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, the Director of National Intelligence. . . shall keep the congressional intelligence committees fully and currently informed of all intelligence activities, other than a covert action, which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government, including any significant failures; and shall furnish to the congressional intelligence committees any information or material concerning covert actions (including the legal basis under which the covert action is being or was conducted) which is in the possession, custody, or control of any department, agency, or entity of the United States Government and which is requested by either of the congressional intelligence committees in order to carry out its authorized responsibilities.
  - Reference: 50 U.S.C. § 3093(b) (2017)
- Each assessment required by subsection (a) [annual personnel level assessments] shall be submitted to the congressional intelligence committees each year at the time that the President submits to Congress the budget for a fiscal year pursuant to section 1105 of Title 31.

- Reference: 50 U.S.C. § 3098(b) (2017)
- Except as provided in subparagraph (B), the Director of National Intelligence shall conduct and submit to the congressional intelligence committees an initial vulnerability assessment for each major system and its significant items of supply except as provided in clause (ii), prior to the completion of Milestone B or an equivalent acquisition decision for the major system. . .The Director may submit to the congressional intelligence committees an initial vulnerability assessment required by clause (ii) of subparagraph (A) not later than 180 days after the date such assessment is required to be submitted under such clause if the Director notifies the congressional intelligence committees of the extension of such submission date under this paragraph and provides a justification for such extension.
  - Reference: 50 U.S.C. § 3099(a)(1) (2017)
- The Director of National Intelligence shall provide to the congressional intelligence committees a copy of each vulnerability assessment conducted under subsection (a) or (b) not later than 10 days after the date of the completion of such assessment.
  - Reference: 50 U.S.C. § 3099(d)(1) (2017)
- The Director of National Intelligence shall provide the congressional intelligence committees with a proposed schedule for subsequent periodic vulnerability assessments of a major system under subsection (b)(1) when providing such committees with the initial vulnerability assessment under subsection (a) of such system as required by paragraph (1).
  - Reference: 50 U.S.C. § 3099(d)(2) (2017)
- Whenever the Director determines under subsection (d) that the total acquisition cost of a major system has increased by a percentage equal to or greater than the significant cost growth threshold for the major system, a Major System Congressional Report shall be submitted to Congress not later than 45 days after the date on which the Director receives the major system cost report for such major system.
  - Reference: 50 U.S.C. § 3101(e)(1) (2017)
- After conducting the reassessment required by subsection (a) with respect to a major system, the Director shall terminate the major system unless the Director submits to Congress a Major System Congressional Report containing a certification in accordance with paragraph (2) and the information described in paragraph (3). The Director shall submit such Major System Congressional Report and certification not later than 90 days after the date the Director receives the relevant major system cost report under subsection (b) or (c) of section 3101 of this title.
  - Reference: 50 U.S.C. § 3102(b)(1) (2017)
- If a major system is terminated pursuant to subsection (b), the Director shall submit to Congress a written report setting forth an explanation of the reasons for terminating the major system; the alternatives considered to address any problems in the major system; and the course the Director plans to pursue to meet any intelligence requirements otherwise intended to be met by the major system.
  - Reference: 50 U.S.C. § 3102(d) (2017)
- If the Director grants a waiver under paragraph (1) with respect to a major system, the Director shall submit to the congressional intelligence committees written notice of the waiver that includes the information described in section 3101(f) of this title and if the current total acquisition cost of the major system has increased by a percentage equal to

or greater than the critical cost growth threshold a determination of the root cause or causes of the critical cost growth, as described in subsection (a)(1) and a certification that includes the elements described in subparagraphs (A), (B), and (E) of subsection (b)(1).

- Reference: 50 U.S.C. § 3102(f)(2)(A) (2017)
- The Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall provide to the congressional intelligence committees a Future Year Intelligence Plan, as described in paragraph (2) for each expenditure center in the National Intelligence Program and each major system in the National Intelligence Program.
  - Reference: 50 U.S.C. § 3103(a) (2017)
- The Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall provide to the congressional intelligence committees a Long-term Budget Projection for each element of the intelligence community funded under the National Intelligence Program acquiring a major system that includes the budget for such element for the 5-year period that begins on the day after the end of the last fiscal year for which year-by-year proposed funding is included in a Future Year Intelligence Plan for such major system in accordance with subsection (a)(2)(A).
  - Reference: 50 U.S.C. § 3103(b) (2017)
- Not later than April 1, 2016, and each year thereafter, the Director of National Intelligence shall, in consultation with the Functional Managers, submit to the congressional intelligence committees a report on covered intelligence functions during the preceding year.
  - Reference: 50 U.S.C. § 3105a (2017)
- The Director of National Intelligence shall annually submit to the congressional intelligence committees a report on violations of law or executive order relating to intelligence activities of an element of the intelligence community that were identified during the previous calendar year.
  - Reference: 50 U.S.C. § 3110 (2017)

*Review Commissions:* None

*Advisory Commissions:* The Joint Intelligence Community Council shall assist the Director of National Intelligence in developing and implementing a joint, unified national intelligence effort to protect national security by advising the Director on establishing requirements, developing budgets, financial management, and monitoring and evaluating the performance of the intelligence community, and on such other matters as the Director may request and ensuring the timely execution of programs, policies, and directives established or developed by the Director.

- Reference: 50 U.S.C. § 3022(c) (2017)
- The National Intelligence Council shall produce national intelligence estimates for the United States Government, including alternative views held by elements of the intelligence community and other information as specified in paragraph (2); evaluate community-wide collection and production of intelligence by the intelligence community and the requirements and resources of such collection and production; and otherwise assist the Director of National Intelligence in carrying out the responsibilities of the Director under section 3024 of this title.
  - Reference: 50 U.S.C. § 3027(c)(1) (2017)

- The Director of National Intelligence [is]. . .authorized to appoint such advisory committees. . .as [he] may deem necessary.
  - Reference: 50 U.S.C. § 3073(a) (2017)
- The Director of National Intelligence shall establish a board within the intelligence community business system transformation governance structure. The Board shall recommend to the Director policies and procedures necessary to effectively integrate all business activities and any transformation, reform, reorganization, or process improvement initiatives undertaken within the intelligence community.
  - Reference: 50 U.S.C. § 3100(f) (2017)

*Action Require Outside Approval:* The Director of National Intelligence shall. . .present such consolidated National Intelligence Program budget, together with any comments from the heads of departments containing agencies or organizations within the intelligence community, to the President for approval.

- Reference: 50 U.S.C. § 3024(c)(1)(C) (2017)
- The Director of National Intelligence may only transfer or reprogram funds referred to in paragraph (1)(A) with the approval of the Director of the Office of Management and Budget.
  - Reference: 50 U.S.C. § 3024(d)(3)(A) (2017)
- In addition to any other authorities available under law for such purposes, in the first twelve months after establishment of a new national intelligence center, the Director of National Intelligence, with the approval of the Director of the Office of Management and Budget. . .may transfer not more than 100 personnel authorized for elements of the intelligence community to such center.
  - Reference: 50 U.S.C. § 3024(e)(1)(A) (2017)
- The Director of National Intelligence, with the approval of the Director of the Office of Management and Budget and in accordance with procedures to be developed by the Director of National Intelligence and the heads of the departments and agencies concerned, may transfer personnel authorized for an element of the intelligence community to another such element for a period of nor more than 2 years.
  - Reference: 50 U.S.C. § 3024(e)(2)(A) (2017)
- The Director of National Intelligence, with the concurrence of the head of the covered department concerned and in consultation with the Director of the Office of Personnel Management may convert competitive service positions, and the incumbents of such positions, within an element of the intelligence community in such department, to excepted service positions as the Director of National Intelligence determines necessary to carry out the intelligence functions of such element and establish new positions in the excepted service within an element of the intelligence community in such department, if the Director of National Intelligence determines such positions are necessary to carry out the intelligence functions of such element.
  - Reference: 50 U.S.C. § 3024(v)(1) (2017)
- The Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall provide to the congressional intelligence committees a Future Year Intelligence Plan, as described in paragraph (2) for each expenditure center in the National Intelligence Program and each major system in the National Intelligence Program.
  - Reference: 50 U.S.C. § 3103(a) (2017)

- The Director of National Intelligence, with the concurrence of the Director of the Office of Management and Budget, shall provide to the congressional intelligence committees a Long-term Budget Projection for each element of the intelligence community funded under the National Intelligence Program acquiring a major system that includes the budget for such element for the 5-year period that begins on the day after the end of the last fiscal year for which year-by-year proposed funding is included in a Future Year Intelligence Plan for such major system in accordance with subsection (a)(2)(A).
  - Reference: 50 U.S.C. § 3103(b) (2017)
- The Secretary of Defense and the Director of National Intelligence shall jointly prescribe regulations to carry out the Foreign Languages Program.
  - Reference: 50 U.S.C. § 3204(a) (2017)

*Legislative Veto:* None

*Adjudication:* None

### **OVERSEAS PRIVATE INVESTMENT CORPORATION**

*Date of Creation:* December 30, 1969<sup>452</sup>

*Statute:* 22 U.S.C. §§ 2191-2200b (2017)

*Authorizing Language:* There is hereby created the Overseas Private Investment Corporation, which shall be an agency of the United States.

- Reference: 22 U.S.C. § 2191 (2017)

*Commissioners/Board Members:* All powers of the Corporation shall vest in and be exercised by or under the authority of its Board of Directors which shall consist of fifteen Directors. . . Eight Directors shall be appointed by the President of the United States, by and with the advice and consent of the Senate. . . The other Directors shall be principal officers of the Government of the United States whose duties relate to the programs of the Corporation, including the President of the Corporation, the Administrator of the Agency for International Development, the United States Trade Representative, and one such office of the Department of Labor, designated by and serving at the pleasure of the President of the United States. The United States Trade Representative may designate a Deputy United States Trade Representative to serve on the Board in place of the United States Trade Representative.

- Reference: 22 U.S.C. § 2193(b) (2017)

*Quorum Rules:* Eight Directors constitut[e] a quorum for the transaction of business.

- Reference: 22 U.S.C. § 2193(b) (2017)

*Agency Specific Personnel:* Of such persons employed by the Corporation, not to exceed twenty may be appointed, compensated, or removed without regard to the civil service laws and regulations.

- Reference: 22 U.S.C. § 2193(d) (2017)

*Limitation on Appointment:* At least two of the eight [PAS] Directors. . . shall be experienced in small business, one in organized labor, and one in cooperatives.

- Reference: 22 U.S.C. § 2193(b) (2017)
- In making such appointment [President of the Corporation], the President shall take into account private business experience of the appointee.

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<sup>452</sup> Foreign Assistance Act of 1969, Pub. L. No. 91-175, 83 Stat. 805 (1969).

- Reference: 22 U.S.C. § 2193(c) (2017)

*Party Balancing:* None

*Fixed Terms:* Each such [PAS] Director shall be appointed for a term of no more than three years.

- Reference: 22 U.S.C. § 2193(b) (2017)

*Staggered Terms:* The terms of not more than three such [PAS] Directors shall expire in any one year.

- Reference: 22 U.S.C. § 2193(b) (2017)

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* Such [PAS] Directors shall serve until the successors are appointed and qualified.

- Reference: 22 U.S.C. § 2193(b) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* There shall be a Chairman. . .designated by the President of the United States from among the Directors of the Board other than those [who are PAS].

- Reference:

*OMB Review:* None

*Independent Litigating:* To carry out the purposes of this subpart, the Corporation is authorized to. . .notwithstanding any other provision of law, to represent itself or to contract for representation in all legal and arbitral proceedings.

- Reference: 22 U.S.C. § 2199(d) (2017)

*Independent Sources of Funding:* In carrying out its purpose, the Corporation, utilizing broad criteria, shall undertake. . .to. . .revolve its funds through selling its direct investments to private investors whenever it can appropriately do so on satisfactory terms.

- Reference: 22 U.S.C. § 2191(c) (2017)
- The Corporation is hereby authorized to do the following: To issue insurance, upon such terms and conditions as the Corporation may determine, to eligible investors assuring protection in whole or in part against any or all of the following risks with respect to the projects which the Corporation has approved [inability to convert other currencies into U.S. dollars, loss of investment due to foreign government action, loss due to war]
  - Reference: 22 U.S.C. § 2194(a)(1) (2017)
- The Corporation is hereby authorized to do the following: . . .To issue to eligible investors guaranties of loans and other investments made by such investors assuring against loss due to such risks and upon such terms and conditions as the Corporation may determine.
  - Reference 22 U.S.C. § 2194(b) (2017)
- The Corporation is hereby authorized to do the following: . . .To make loans in United States dollars repayable in dollars or loans in foreign currencies. . .to firms privately owned or of mixed private and public ownership upon such terms and conditions as the Corporation may determine.
  - Reference 22 U.S.C. § 2194(c) (2017)
- There shall be established in the Treasury of the United States a noncredit account revolving fund, which shall be available for the discharge of liabilities, as provided in subsection (d) of this section, until such time as all such liabilities have been discharged or have expired or until all of the fund has been expended in accordance with the provisions of this section. Such fund shall be funded by: (1) the funds heretofore

available to discharge liabilities under predecessor guaranty authority (including housing guaranty authorities), less both the amount made available for housing guaranty programs pursuant to section 2183(b) of this title and the amount made available to the Corporation pursuant to subsection (e) of this section; and (2) such sums as shall be appropriated pursuant to subsection (f) of this section for such purpose.

- Reference: 22 U.S.C. § 2195(c) (2017)
- In order to carry out the purposes of the Corporation, all revenues and income transferred to or earned by the Corporation, from whatever source derived, shall be held by the Corporation and shall be available to carry out its purposes, including without limitation payment of all expenses of the Corporation, including investment promotion expenses; transfers and additions to the insurance or guaranty reserves, the Direct Investment Fund established pursuant to section 2195 of this title, and such other funds or reserves as the Corporation may establish, at such time and in such amounts as the Board may determine; and payment of dividends, on capital stock, which shall consist of and be paid from net earnings of the Corporation after payments, transfers, and additions under subsections (a) and (b) hereof.
  - Reference: 22 U.S.C. § 2196 (2017)
- Fees may be charged for providing insurance, reinsurance, financing, and other services under this subpart in amounts to be determined by the Corporation. . . Fees paid for the project-specific transaction costs and other director costs associated with services provided to specific investors or potential investors pursuant to section 2194 of this title (other than those covered in paragraph (2)), including financing, insurance, reinsurance, missions, seminars, conferences, and other preinvestment services, shall be available for obligation for the purposes for which they were collected, notwithstanding any other provision of law.
  - Reference: 22 U.S.C. § 2197(d) (2017)
- To carry out the purposes of this subpart, the Corporation is authorized to . . . invest funds derived from fees or other revenues in obligations of the United States and to use the proceeds therefrom, including earnings and profits, as it shall deem appropriate.
  - Reference: 22 U.S.C. § 2199(d)

*Reporting Requirements:* Before issuing insurance for the first time for loss due to business interruption, and in each subsequent instance in which a significant expansion is proposed in the type of risk to be insured under the definition of “civil strife” or “business interruption,” the Corporation shall, at least sixty days before such insurance is issued, submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report with respect to such insurance, including a thorough analysis of the risks to be covered, anticipated losses, and proposed rates and reserves, and in the case of insurance loss due to business interruption, an explanation of the underwriting basis upon which the insurance is to be offered.

- Reference: 22 U.S.C. § 2194(a)(4) (2017)
- The Corporation shall consult annually with the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate on the implementation of the pilot equity finance program established under this subsection.
  - Reference: 22 U.S.C. § 2194(g)(6) (2017)
- An independent certified public accountant shall perform a financial and compliance audit of the financial statements of the Corporation at least once every three years. .

. These financial statements and the report of the accountant shall be included in a report which contains, to the extent applicable, the information identified in section 9106 of Title 31, and which the Corporation shall submit to the Congress not later than six and one-half months after the end of the last fiscal year covered by the audit.

- Reference: 22 U.S.C. § 2199(c)(2) (2017)
- After the end of each fiscal year, the Corporation shall submit to the Congress a complete and detailed report of its operations during such fiscal year.
  - Reference: 22 U.S.C. § 2200a(a) (2017)

*Review Commissions:* None

*Advisory Commissions:* The Corporation shall establish a group to advise the Corporation on the development and implementation of the cooperative programs under this section [enhancing private political risk insurance industry].

- Reference: 22 U.S.C. § 2194b(b) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **PEACE CORPS**

*Date of Creation:* March 1, 1961<sup>453</sup>

*Statute:* 22 U.S.C. §§ 2501-2523 (2017)

*Authorizing Language:* Effective on December 29, 1981, the Peace Corps shall be an independent agency within the executive branch.

- Reference: 22 U.S.C. § 2501-1 (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* For the purpose of performing functions under this chapter outside the united States, the President may employ or assign persons, or authorize the employment or assignment of officers or employees of agencies of the United States Government which are not authorized to utilize the Foreign Service personnel system, who shall receive compensation at any of the rates established under section 402 or 403 of the Foreign Service Act of 1980, together with allowances and benefits thereunder.

- Reference: 22 U.S.C. § 2506(a)(1) (2017)
- Except as provided in paragraph (6) [special circumstances], the Director of the Peace Corps may make assignments or assignments of United States citizens under paragraph (2) [authority under Foreign Service Act] for periods of more than five years only in the case of individuals whose performance as employees of the Peace Corps has been exceptional and only in order to achieve one or more of the following purposes: to permit individuals who have serviced at least two and one-half years to serve].
  - Reference: 22 U.S.C. § 2506(a)(5) (2017)

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

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<sup>453</sup> Originally established by Exec. Order No. 10,924 (1961).

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* The President may appoint, by and with the advice and consent of the Senate, a Director of the Peace Corps.

- Reference: 22 U.S.C. § 2503(a) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* In furtherance of the purposes of this chapter, the President may . . . accept in the name of the Peace Corps and employ or transfer in furtherance of the purposes of this chapter . . . any money or property (real, personal or mixed, tangible or intangible) received by gift, devise, bequest, or otherwise.

- Reference: 22 U.S.C. § 2509(a)(4)(B) (2017)
- There is established in the Treasury of the United States a fund for the Peace Corps to provide separation pay for host country resident personal services contractors of the Peace Corps. The Director of the Peace Corps may deposit in the fund established under subsection (a) of this section amounts previously obligated and not canceled to provide the separation pay described in such subsection and amounts obligated for fiscal years after fiscal year 2006 for current and future costs of providing such separation pay. Beginning in fiscal year 2007, amounts deposited in the fund . . . shall be available without fiscal year limitation for severance, retirement, or other separation payments to host country resident personal services contractors of the Peace Corps in Countries where such payments are legally authorized.
  - Reference: 22 U.S.C. § 2514a (2017)
- There is established in the Treasury of the United States an account to be known as the “Foreign Currency Fluctuations, Peace Corps, Account.” The account shall be used for the purpose of providing funds to pay expenses for operations of the Peace Corps outside the United States which, as a result of fluctuations in currency exchange rates, exceed the amount appropriated for such expenses.
  - Reference: 22 U.S.C. § 2515 (2017)

*Reporting Requirements:* Annually through September 30, 2018, the President shall conduct a confidential survey of volunteers regarding the effectiveness of Peace Corps programs and staff and the safety of volunteers. The results shall be provided in aggregate form without identifying information to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives.

- Reference: 22 U.S.C. § 2507e(c) (2017)
- Upon request of the Chairman and Ranking Member of the Committee on Foreign Relations of the Senate or the Committee on Foreign Affairs of the House of Representatives, the President shall brief such committees on each portfolio review required under paragraph (1) [review performed at least once every 3 years of Peace Corps programs].
  - Reference: 22 U.S.C. § 2507e(e)(2) (2017)
- The President shall annually through September 30, 2018, submit to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee

on Foreign Affairs and the Committee on Appropriations of the House of Representatives a report summarizing information on sexual assault of volunteers; other crimes against volunteers; the number of arrests, prosecutions, and incarcerations for crimes involving Peace Corps volunteers for every country in which volunteers service; and the annual rate of early termination of volunteers, including demographic data associated with such early termination.

- Reference: 22 U.S.C. § 2507i(a) (2017)
- Not later than January 1, 1988, and not later than January 1 of each second year thereafter, the [Peace Corps National Advisory] Council shall submit to the President and the Director of the Peace Corps a report on its views on the programs and activities of the Peace Corps. Each report shall contain a summarize of the advice and recommendations provided by the Council to the President and the Director during the period covered by the report and such recommendations (including recommendations for administrative or legislative action) as the Council considers appropriate to make to the Congress. Within ninety days after receiving such report, the President shall submit to the Congress a copy of the report, together with any comments concerning the report that the President or the Director considers appropriate.
  - Reference: 22 U.S.C. § 2511(i) (2017)
- Every year the Director of the Peace Corps shall submit to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives, and to the Committee on Foreign Relations and the Committee on Appropriations of the Senate, a report of funds transferred under this section [Foreign Currency Fluctuations Account].
  - Reference: 22 U.S.C. § 2515(h) (2017)

*Review Commissions:* None

*Advisory Commissions:* There is established a Sexual Assault Advisory Council. . . The Council shall meet not less often than annually to review the sexual assault risk-reduction and response training [, sexual assault policy, and other Peace Corps sexual assault policies].

- Reference: 22 U.S.C. § 2507d (2017)
- A Peace Corps National Advisory Council shall be established in accordance with the provisions of this section. The Council shall advise and consult with the President and the Director of the Peace Corps with regard to policies and programs designed to further the purposes of this chapter.
  - Reference: 22 U.S.C. § 2511 (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **POSTAL REGULATORY COMMISSION**

*Date of Creation:* August 12, 1970<sup>454</sup>

*Statute:* 39 U.S.C. §§ 501-505 (2017)

*Authorizing Language:* The Postal Regulatory Commission as an independent establishment of the executive branch of the Government of the United States.

- Reference: 39 U.S.C. § 501 (2017)

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<sup>454</sup> Postal Reorganization Act, Pub. L. No. 91-375, 84 Stat. 719 (1970).

*Commissioners/Board Members:* The Postal Regulatory Commission is composed of 5 Commissioners, appointed by the President, by and with the advice and consent of the Senate.

- Reference: 39 U.S.C. § 502(a) (2017)

*Quorum Rules:* None

*Agency Specific Personnel:* Any officer or employee appointed under this section shall be paid at rates of compensation and shall be entitled to programs offering employee benefits established under chapter 10 or chapter 12 of this title, as appropriate [relating to postal service personnel system].

- Reference: 39 U.S.C. § 504(c) (2017)

*Limitation on Appointment:* The Commissioners shall be chosen solely on the basis of their technical qualifications, professional standing, and demonstrated expertise in economics, accounting, law, or public administration. . . Each individual appointed to the Commission shall have the qualifications and expertise necessary to carry out the enhanced responsibilities accorded Commissioners under the Postal Accountability and Enhancement Act.

- Reference: 39 U.S.C. § 502(a) (2017)
- No Commissioner shall be financially interested in any enterprise in the private sector of the economy engaged in the delivery of mail matter.
  - Reference: 39 U.S.C. § 502(b) (2017)

*Party Balancing:* Not more than 3 of the Commissioners may be adherents of the same political party.

- Reference: 39 U.S.C. § 502(a) (2017)

*Fixed Terms:* The Commissioners shall serve for terms of 6 years.

- Reference: 39 U.S.C. § 502(f) (2017)

*Staggered Terms:* None

*For Cause:* The Commissioners. . . may be removed by the President only for cause.

- Reference: 39 U.S.C. § 502(a) (2017)

*Serve President:* None

*Continuation until Replacement:* A Commissioner may continue to serve after the expiration of his term until his successor has qualified, except that a Commissioner may not so continue to serve for more than 1 year after the date upon which his term otherwise would expire under subsection (f).

- Reference: 39 U.S.C. § 502(c) (2017)

*Acting Service Rules:* The Vice Chairman shall act as Chairman of the Commission in the absence of the Chairman.

- Reference: 39 U.S.C. § 502(e) (2017)

*Who is Head of Agency:* One of the Commissioners shall be designated as Chairman by, and shall serve in the position of Chairman at the pleasure of, the President.

- Reference: 39 U.S.C. § 502(d) (2017)
- The Chairman of the Postal Regulatory Commission shall be the principal executive officer of the Commission.
  - Reference: 39 U.S.C. § 504(a) (2017)

*OMB Review:* None<sup>455</sup>

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* In requesting an appropriation under this subsection for a fiscal year, the Commission shall prepare and submit to the Congress under section 2009 a budget of the Commission's expenses, including expenses for facilities, supplies, compensation, and employee benefits.

- Reference: 39 U.S.C. § 504(d) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* Any Commissioner of the Postal Regulatory Commission, any administrative law judge appointed by the Commission under section 3105 of title 5, and any employee of the Commission designated by the Commission may administer oaths, examine witnesses, take depositions, and receive evidence. The Chairman of the Commission, any Commissioner designated by the Chairman, and any administrative law judge appointed by the Commission under section 3105 of title 5 may, with respect to any proceeding conducted by the Commission under this title or to obtain information to be used to prepare a report under this title issue subpoenas requiring the attendance and presentation of testimony by, or the production of documentary or other evidence in the possession of, any covered person and order the taking of depositions and responses to written interrogatories by a covered person.

- Reference: 39 U.S.C. § 504(f) (2017)
- The Commission shall not issue its opinion on any proposal [to a change in the nature of postal services] until an opportunity for hearing on the record under sections 556 and 557 of title 5 has been accorded to the Postal Service, users of the mail, and an officer of the Commission who shall be required to represent the interest of the general public.
  - Reference: 39 U.S.C. § 3661(c)

## **PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD**

*Date of Creation:* December 17, 2004<sup>456</sup>

*Statute:* 42 U.S.C. §§ 2000ee

*Authorizing Language:* There is established as an independent agency within the executive branch a Privacy and Civil Liberties Oversight Board.

- Reference: 42 U.S.C. § 2000ee(a) (2017)

*Commissioners/Board Members:* The Board shall be composed of a full-time chairman and 4 additional members, who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 42 U.S.C. § 2000ee(h)(1) (2017)

*Quorum Rules:* Three members of the Board shall constitute a quorum.

- Reference: 42 U.S.C. § 2000ee(h)(5) (2017)

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<sup>455</sup> The Postal Regulatory Commission is identified as an "independent regulatory agency" and thus is exempt from OMB rule review. See Exec. Order No. 12866, 58 Fed. Reg. 51735 (1993); 44 U.S.C. § 3502(5) (2017).

<sup>456</sup> Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 108-458, 118 Stat. 3638 (2004).

*Agency Specific Personnel:* The chairman of the Board, in accordance with rules agreed upon by the Board, shall appoint and fix the compensation of a full time executive director and such other personnel as may be necessary to enable the Board to carry out its functions, without regard to the provisions of Title 5 governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule.

- Reference: 42 U.S.C. § 2000ee(j)(1)

*Limitation on Appointment:* Members of the Board shall be selected solely on the basis of their professional qualifications, achievements, public stature, expertise in civil liberties and privacy, and relevant experience.

- Reference: 42 U.S.C. § 2000ee(h)(2) (2017)
- The President shall, before appointing an individual who is not a member of the same political party as the President, consult with the leadership of that party, if any, in the Senate and House of Representatives.

- Reference: 42 U.S.C. § 2000ee(h)(2) (2017)

*Party Balancing:* In no event shall more than 3 members of the Board be members of the same political party.

- Reference: 42 U.S.C. § 2000ee(h)(2) (2017)

*Fixed Terms:* Each member of the Board shall serve a term of 6 years.

- Reference: 42 U.S.C. § 2000ee(h)(4) (2017)

*Staggered Terms:* None

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* Upon the expiration of the term of office of a member, the member shall continue to serve until the member's successor has been appointed and qualified, except that no member may serve under this subparagraph for more than 60 days when Congress is in session unless a nomination to fill the vacancy shall have been submitted to the Senate or after the adjournment sine die of the session of the Senate in which such nomination is submitted.

- Reference: 42 U.S.C. § 2000ee(4) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* A full-time Chairman

- Reference: 42 U.S.C. § 2000ee(h)(1) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* The Board shall . . . periodically submit, not less than semiannually, reports to the appropriate committees of Congress, including the Committee on the Judiciary of the Senate, Committee on the Judiciary of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland Security of the House of Representatives, the Committee on Oversight and Government Reform of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives. . . Not less than 2 reports submitted each

year under paragraph (1)(B) shall include a description of the major activities of the Board during the preceding period; information on the findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d) of this section; the minority views on any findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d) of this section; each proposal reviewed by the Board under subsection (d)(1) of this section that the Board advised against implementation and notwithstanding such advice, actions were taken to implement, and for the preceding period, any requests submitted under subsection (g)(1)(D) of this section for the issuance of subpoenas that were modified or denied by the Attorney General.

- Reference: 42 U.S.C. §§ 2000ee(e)(1)-(2) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **PUERTO RICO FINANCIAL OVERSIGHT AND MANAGEMENT BOARD**

*Date of Creation:* June 30, 2016<sup>457</sup>

*Statute:* 48 U.S.C. §§ 2101-2241 (2017)

*Authorizing Language:* A Financial Oversight and Management Board is hereby established for Puerto Rico. . . An Oversight established under this section. . . shall not be considered to be a department, agency, establishment, or instrumentality of the Federal Government.

- Reference: 48 U.S.C. § 2121(b)(1); (c)(2) (2017)

*Commissioners/Board Members:* The Oversight Board shall consist of seven members appointed by the President who meet the qualifications described in subsection (f) and section 2129(a) of this title. The Board shall be comprised of one Category A member, one Category B member, two Category C members, one Category D member, one Category E member, and one Category F member. The President shall appoint the individual members of the Oversight Board, of which the Category A member should be selected from a list of individuals submitted by the Speaker of the House of Representatives; the Category B member should be selected from a separate, non-overlapping list of individuals submitted by the Speaker of the House of Representatives; the Category C members should be selected from a list submitted by the Majority Leader of the Senate; the Category D member should be selected from a list submitted by the Minority Leader of the House of Representatives; the Category E member should be selected from a list submitted by the Minority Leader of the Senate; and the Category F member may be selected in the President's sole discretion. . . With respect to the appointment of a Board member in Category A, B, C, D, or E, such an appointment shall be by and with the advice and consent of the Senate, unless the President appoints an individual from a list, as provided in this subsection, in which case no Senate confirmation is required. . . The Governor, or the Governor's designee, shall be an ex officio member of the Oversight Board without voting rights.

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<sup>457</sup> Puerto Rico Oversight, Management, and Economic Stability Act, Pub. L. No. 114-187, 130 Stat. 549 (2016).

- Reference: 48 U.S.C. § 2121(e) (2017)

*Quorum Rules:* None

*Agency Specific Personnel:* With the approval of the Chair, the Executive Director may appoint and fix the pay of additional personnel as the Executive Director considers appropriate, except that no individual appointed by the Executive Director may be paid at a rate greater than the rate of pay for the Executive Director unless the Oversight Board provides for otherwise.<sup>458</sup>

- Reference: 48 U.S.C. § 2123(b) (2017)

*Limitation on Appointment:* The Category A member shall maintain a primary residence in the territory or have a primary place of business in the territory.

- Reference: 48 U.S.C. § 2121(e)(2)(D) (2017)
- An individual is eligible for appointment as a member of the Oversight Board only if the individual has knowledge and expertise in finance, municipal bond markets, management, law, or the organization or operation of business or government and prior to appointment, an individual is not an officer, elected official, or employee of the territorial government, a candidate for elected office of the territorial government, or a former elected official of the territorial government.
  - Reference: 48 U.S.C. § 2121(f) (2017)
- In selecting nominees under paragraph (1)(A) [Revitalization Coordinator], the Oversight Board shall only nominate persons who have substantial knowledge and expertise in the planning, predevelopment, financing, development, operations, engineering, or market participation of infrastructure projects, provided that stronger consideration may be given to candidates who have experience with Energy Projects and the laws and regulations of Puerto Rico that may be subject to an Expedited Permitting Process; does not currently provide goods or services to the government of Puerto Rico (and, as applicable, is not the spouse, parent, child, or sibling of a person who provides or has provided goods and services to the government of Puerto Rico in the preceding 3 calendar years); and shall not be an officer, employee, of, or former officer or employee of the government of Puerto Rico in the preceding 3 calendar years.
  - Reference: 48 U.S.C. § 2212(b)(2)

*Party Balancing:* None

*Fixed Terms:* Each appointed member of the Oversight Board shall be appointed for a term of 3 years. . . An individual may serve consecutive terms as an appointed member, provided that such reappointment occurs in compliance with paragraph (6).

- Reference: 48 U.S.C. § 2121(e)(5)(A); (D) (2017)

*Staggered Terms:* None

*For Cause:* The President may remove any member of the Oversight Board only for cause.

- Reference: 48 U.S.C. § 2121(e)(5)(I) (2017)

*Serve President:* None

*Continuation until Replacement:* Upon the expiration of a term of office, a member of the Oversight Board may continue to serve until a successor has been appointed.

- Reference: 48 U.S.C. § 2121(e)(5)(C) (2017)

*Acting Service Rules:* None

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<sup>458</sup> Because the Oversight Board is not considered to be an agency of the Federal Government, it is not subject to civil service laws.

*Who is Head of Agency:* The voting members of the Oversight Board shall designate one of the voting members of the Oversight Board as the Chair of the Oversight Board.

- Reference: 48 U.S.C. § 2121(e)(4) (2017)

*OMB Review:* None<sup>459</sup>

*Independent Litigating:* In any action brought by, on behalf of, or against the Oversight Board, the Oversight Board shall be represented by such counsel as it may hire or retain so long as the representation complies with the applicable professional rules of conduct governing conflicts of interests.

- Reference: 48 U.S.C. § 2128(b) (2017)

*Independent Sources of Funding:* The Oversight Board may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Oversight Board. Gifts, bequests, or devises of money and proceeds from sale or other property received as gifts, bequests, or devises shall be deposited in such account as the Oversight Board may establish and shall be available for disbursement upon order of the Chair, consistent with the Oversight Board's bylaws, or rules and procedures.

- Reference: 48 U.S.C. § 2124(e) (2017)
- The Oversight Board shall use its powers with respect to the Territory Budget of the covered territory to ensure that sufficient funds are available to cover all expenses of the Oversight Board. Within 30 days after June 30, 2016, the territorial government shall designate a dedicated funding source, not subject to subsequent legislative appropriations, sufficient to support the annual expenses of the Oversight Board as determined in the Oversight Board's sole and exclusive discretion. On the date of establishment of an Oversight Board in accordance with section 2121(b) of this title and on the 5<sup>th</sup> day of each month thereafter, the Governor of the covered territory shall transfer or cause to be transferred the greater of \$2,000,000 or such amount as shall be determined by the Oversight Board pursuant to subsection (a) to a new account established by the territorial government, which shall be available to and subject to the exclusive control of the Oversight Board, without any legislative appropriations of the territorial government. The initial funding requirements under subparagraph (A) shall terminate upon the territorial government designating a dedicated funding source not subject to subsequent legislative appropriations under paragraph (1).

- Reference: 48 U.S.C. § 2127 (2017)

*Reporting Requirements:* The Oversight Board shall submit a budget for each fiscal year during which the Oversight Board is in operation, to . . .the House of Representatives Committee on Natural Resources and the Senate Committee on Energy and Natural Resources.

- Reference: 48 U.S.C. § 2127(a) (2017)
- If the territorial government fails to provide additional information under subsection (B)(1)(A), or fails to correct an inconsistency under subsection (b)(1)(B), prior to the applicable deadline under subsection (b)(2), the Oversight Board shall certify to . . .the House of Representatives Committee on Natural Resources, the Senate Committee on Energy and Natural Resources. . .that the territorial government is inconsistent with the applicable certified Budget, and shall describe the nature and amount of the inconsistency.

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<sup>459</sup> Not agency

- Reference: 48 U.S.C. § 2143(c)(1) (2017)
- If the Oversight Board determines that the territorial government has initiated such measures as the Oversight Board considers sufficient to correct an inconsistency certified under paragraph (1), the Oversight Board shall certify the correction to . . .the House of Representatives Committee on Natural Resources [and] the Senate Committee on Energy and Natural Resources.
  - Reference: 48 U.S.C. § 2143(c)(2) (2017)
- Not later than 30 days after the last day of each fiscal year, the Oversight Board shall submit a report to the . . .Congress. . .describing [progress, assistance provided by the Oversight Board, recommendations, the way in which funds allocated to the Oversight Board have been spent, and other activities of the Oversight Board during the fiscal year.
  - Reference: 48 U.S.C. § 2148(a) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

### **RAILROAD RETIREMENT BOARD**

*Date of Creation:* August 29, 1935<sup>460</sup>

*Statute:* 45 U.S.C. §§ 231-231v (2017)

*Authorizing Language:* This subchapter shall be administered by the Railroad Retirement Board established by the Railroad Retirement Act of 1937 as an independent agency in the executive branch of the Government.

- Reference: 45 U.S.C. § 231f(a) (2017)

*Commissioners/Board Members:* [The Board shall be] composed of three members appointed by the President, by and with the advice and consent of the Senate.

- Reference: 45 U.S.C. § 231f(a) (2017)

*Quorum Rules:* A majority of those in office shall constitute a quorum for the transaction of business.

- Reference: 45 U.S.C. § 231f(a) (2017)

*Agency Specific Personnel:* None

*Limitation on Appointment:* One member shall be appointed from recommendations made by representatives of the employees and one member shall be appointed from recommendations made by representatives of employers as defined in paragraph (i) of section 231(a)(1) of this title, in both cases as the President shall direct, as to provide representation on the Board satisfactory to the largest number, respectively of employees and employers concerned. . .[the final member] shall not be in the employment of or be pecuniarily or otherwise interested in any employer or organization of employees.

- Reference: 45 U.S.C. § 231f(a) (2017)

*Party Balancing:* None

*Fixed Terms:* Each member shall hold office for a term of five years.

- Reference: 45 U.S.C. § 231f(a) (2017)

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<sup>460</sup> Railroad Retirement Act of 1935, Pub. L. No. 399, 49 Stat. 967 (1935).

*Staggered Terms:* None

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* Upon the expiration of his term of office a member shall continue to serve until his successor is appointed and shall have qualified.

- Reference: 45 U.S.C. § 231f(a) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* One member, who shall be the chairman of the Board, shall be appointed without recommendation by either employers or employees.

- Reference: 45 U.S.C. § 231f(a) (2017)

*OMB Review:* Whenever the Board submits or transmits any budget estimate, budget request, supplemental budget estimate, or other budget information, legislative recommendation, prepared testimony for congressional hearings, or comment on legislation to the President or to the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have the authority to require the Board to submit its budget requests or estimates, legislative recommendations, prepared testimony for congressional hearings, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to Congress.<sup>461</sup>

- Reference: 45 U.S.C. § 231f(f) (2017)

*Independent Litigating:* None

*Independent Sources of Funding:* The Board is authorized to accept on behalf of the United States money gifts and bequests made unconditionally to the Railroad Retirement Account, to the Railroad Retirement Supplemental Account, or to the Railroad Unemployment Insurance Account, or to the Board, or any member, officer, or employee thereof, for the benefit of such accounts or any activity financed through such accounts. Any such gift accepted pursuant to the authority granted in this subsection shall be deposited in the specific account designated by the donor or, if the donor has made no such specific designation, in the Railroad Retirement Account.

- Reference: 45 U.S.C. § 231f(e) (2017)
- The Railroad Retirement Account established by section 15(a) of the Railroad Retirement Act of 1937 shall continue to be maintained in the Treasury of the United States. . .In addition to the amount appropriated in subsection (a) of this section, there is hereby authorized to be appropriated to the Railroad Retirement Account for each fiscal year, beginning with the fiscal year ending June 30, 1975, such amount as the Board determines to be necessary to meet (A) the additional costs, resulting from the crediting of military service under this subchapter, of benefits payable under section 231a of this title, but only to the extent that such Account is not reimbursed for such costs under section 231f(c)(2) of this title, (B) the additional administrative expenses resulting from the crediting of military service under this subchapter, and (C) any loss in interest to such Account resulting from the payment of additional benefits based on military service credited under this subchapter. . .At the close of the fiscal year ending June 30, 1975 and each fiscal year thereafter, the Board shall, as promptly as practicable, determine the

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<sup>461</sup> See also, Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget “Bypass” Authorities (Feb. 20, 2001), *available at* <http://www.citizen.org/documents/OMBDocument1.pdf>.

amount to be appropriated to the Account pursuant to the provisions of this subsection, and shall certify such amount to the Secretary of the Treasury for transfer from the general fund in the Treasury to the Railroad Retirement Act.

- Reference: 45 U.S.C. § 231n(b)
- There is hereby created an account in the Treasury of the United States to be known as the Dual Benefits Payments Account. . . Not more than 30 days prior to each fiscal year beginning with the fiscal year ending September 30, 1982, the Board may request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the Dual Benefits Payments Account any amount not exceeding the amount that the Board estimates will be necessary to pay on the first day of the next succeeding month the annuity amounts under sections 231b(h), 231c(e), and 231c(h) of this title, and the Secretary of the Treasury shall make such transfer, but at no time shall the total amount of money outstanding to the Dual Benefits Payments Account from the Railroad Retirement Account exceed the amount necessary to pay the annuity amounts under sections 231b(h), 231c(e), and 231c(h) of this title and sections 204(a)(3), 204(a)(4), 206(3), and 207(3) of Public Law 93-445 for one month.
  - Reference 45 U.S.C. § 231n(d) (2017)
- At the request and direction of the Board, it shall be the duty of the Secretary of the Treasury to invest such portion of the amounts credited to the Railroad Retirement Account and the Dual Benefits Payments Account as are not transferred to the National Railroad Retirement Investment Trust as the Board may determine in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.
  - Reference: 45 U.S.C. § 231n(e) (2017)
- There is hereby created an account in the Treasury of the United States to be known as the Social Security Equivalent Benefit Account. . . Upon the establishment of the National Railroad Retirement Investment Trust and from time to time thereafter, the Board shall direct the Secretary of the Treasury to transfer, in such manner as will maximize the investment returns to the Railroad Retirement system, the balance of the Social Security Equivalent Benefit Account not needed to pay current benefits and administrative expenses required to be paid from that Account to the National Railroad Retirement Investment Trust or the Railroad Retirement Account, and the Secretary shall make that transfer.
  - Reference: 45 U.S.C. § 231n-1 (2017)

*Reporting Requirements:* No later than July 1 of each year, the Board shall submit a written report to. . . the Speaker of the House and the President of the Senate setting forth the results of the projects prepared pursuant to the preceding two sentences [five year projection of anticipated revenues to and payments from the Railroad Retirement Account and projection of the account benefits ratio and average account benefits ratio].

- Reference: 45 U.S.C. § 231u(a)(1) (2017)

*Review Commissions:* None

*Advisory Commissions:* The Actuarial Advisory Committee with respect to the Railroad Retirement Account. . . shall examine the actuarial reports and estimates made by the Board and shall have the authority to recommend to the Board such changes in actuarial methods as they may deem necessary.

- Reference: 45 U.S.C. § 231n(f) (2017)

*Action Require Outside Approval:* At the close of the fiscal year ending June 30, 1975, and each fiscal year thereafter, the Board and the Secretary of Health and Human Services shall determine the amounts, if any, which if added to or subtracted from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the Federal Hospital Insurance Trust Fund would place each such Trust Fund in the same position in which it would have been if (A) service as an employee after December 31, 1936, had been included in the term “employment” as defined in the Social Security Act and in the Federal Contributions Act and (B) this subchapter had not been enacted.

- Reference: 45 U.S.C. § 231f(c)(2) (2017)

*Legislative Veto:* None

*Adjudication:* None

## **SECURITIES AND EXCHANGE COMMISSION**

*Date of Creation:* June 6, 1934<sup>462</sup>

*Statute:* 15 U.S.C. §§ 78a-78qq (2017)

*Authorizing Language:* There is hereby established a Securities and Exchange Commission.

- Reference: 15 U.S.C. § 78d(a) (2017)

*Commissioners/Board Members:* [The Commission shall] be composed of five commissioners to be appointed by the President by and with the advice and consent of the Senate.

- Reference: 15 U.S.C. § 78d(a) (2017)

*Quorum Rules:* None

*Agency Specific Personnel:* The Commission shall appoint and compensate officers, attorneys, economists, examiners, and other employees in accordance with section 4802 of Title 5.<sup>463</sup>

- Reference: 15 U.S.C. § 78d(b) (2017)

*Limitation on Appointment:* No commissioner shall. . .participate, directly or indirectly, in any stock-market operations or transactions of a character subject to regulation by Commission pursuant to this chapter.

- Reference: 15 U.S.C. § 78d(a) (2017)
- The head of the Office [of the Investor Advocate] shall be the Investor Advocate, who shall. . .be appointed. . .from among individuals having experience in advocating for the interests of investors in securities and investor protection issues, from the perspective of investors.
  - Reference: 15 U.S.C. § 78d(g)(2)(A)(ii) (2017)
- The Head of the Office [of the Advocate for Small Business Capital Formation] shall. . .be appointed. . .from among individuals having experience in advocating for the interests of small businesses and encouraging small business capital formation.
  - Reference: 15 U.S.C. § 78d(j)(2)(A)(ii) (2017)

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<sup>462</sup> Securities Exchange Act of 1934, Pub. L. No. 291, 48 Stat. 881 (1934).

<sup>463</sup> The Commission may appoint and fix the compensation of such officers, attorneys, economists, and other employees as may be necessary for carrying out its functions under the securities laws as defined under section 3 of the Securities Exchange Act of 1934 without regard to the provisions of chapter 51 or subchapter III of chapter 53. 5 U.S.C. § 4802 (2017)

*Party Balancing:* Not more than three of such commissioners shall be members of the same political party, and in making appointments members of different political parties shall be appointed alternately as nearly as may be practicable.

- Reference: 15 U.S.C. § 78d(a) (2017)

*Fixed Terms:* Each commissioner shall hold office for a term of five years.

- Reference: 15 U.S.C. § 78d(a) (2017)

*Staggered Terms:* The terms of office of the commissioners first taking office after June 6, 1934, shall expire as designated by the President at the time of nomination, one at the end of one year, one at the end of two years, one at the end of three years, one at the end of four years, and one at the end of five years, after June 3, 1934.

- Reference: 15 U.S.C. § 78d(a) (2017)

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* Each commissioner shall hold office. . .until his successor is appointed and qualified, except that he shall not so continue to serve beyond the expiration of the next session of Congress subsequent to the expiration of said fixed term of office.

- Reference: 15 U.S.C. § 78d(a) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* None

*OMB Review:* For fiscal year 2012, and each fiscal year thereafter, the Commission shall prepare and submit a budget to the President. Whenever the Commission submits a budget estimate or request to the President or the Office of Management and Budget, the Commission shall concurrently transmit copies of the estimate or request to the Committee on Appropriations of the Senate, the Committee on Appropriations of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives. The President shall submit each budget submitted under paragraph (1) to Congress, in unaltered form, together with the annual budget for the Administration submitted by the President.<sup>464</sup>

- Reference: 15 U.S.C. § 78ee(m) (2017)

*Independent Litigating:* None

*Independent Sources of Funding:* Notwithstanding any other provision of law, the Commission may accept payment and reimbursement, in cash or in kind, from a foreign securities authority, or made on behalf of such authority, for necessary expenses incurred by the Commission, its members, and employees in carrying out any investigation pursuant to section 78u(a)(2) of this title or in providing any other assistance to a foreign securities authority. Any payment or reimbursement accepted shall be considered a reimbursement to the appropriated funds of the Commission.

- Reference: 15 U.S.C. § 78d(f) (2017)

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<sup>464</sup> The Securities and Exchange Commission is identified as an “independent regulatory agency” and thus is exempt from OMB rule review. See Exec. Order No. 12866, 58 Fed. Reg. 51735 (1993); 44 U.S.C. § 3502(5) (2017). Financial regulatory agencies, including the SEC, are exempt from OMB legislative communications review. 12 U.S.C. § 250 (2017). See also, Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget “Bypass” Authorities (Feb. 20, 2001), available at <http://www.citizen.org/documents/OMBDocument1.pdf>.

- There is established in the Treasury of the United States a separate fund, to be known as the “Securities and Exchange Commission Reserve Fund.” Except as provided in subparagraph (B), any registration fees collected by the Commission under section 77f(b) of this title or section 80a-24(f) of this title shall be deposited into the Reserve Fund. For any 1 fiscal year the amount deposited in the Fund may not exceed \$50,000,000,000 and the balance in the Fund may not exceed \$100,000,000. Any amounts in excess of the limitations described in subparagraph (B) that the Commission collects from registration fees under section 77f(b) of this title or section 80a-24(f) of this title shall be deposited in the General Fund of the Treasury of the United States and shall not be available for obligation by the Commission. The Commission may obligate amounts in the Reserve Fund, not to exceed a total of \$100,000,000 in any 1 fiscal year, as the Commission determines is necessary to carry out the functions of the Commission. Any amounts in the reserve fund shall remain available until expended.
  - Reference: 15 U.S.C. § 78d(i) (2017)
- The Commission shall make available to the public for a reasonable fee a list of all equity securities of a class described in subsection (d)(1), updated no less frequently than reports are required to be filed pursuant to paragraph (1) of this subsection. . . Promptly after the filing of any such report, the Commission shall make the information contained therein conveniently available to the public for a reasonable fee in such form as the Commission, by rule, may prescribe.
  - Reference: 15 U.S.C. § 78m(f)(4) (2017)
- The Commission, by rule, may prescribe reasonable fees and charges to defray its costs in carrying out this paragraph [manner of registration of brokers and dealers], including, but not limited to, fees for any test administered by it or under its direction.
  - Reference: 15 U.S.C. § 78o(b)(7) (2017)
- Fines collected by the Commission for violations of the rules of the Board shall be equally divided between the Commission and the Board.
  - Reference: 15 U.S.C. § 78o-4(c)(9)(A) (2017)
- There is established in the Treasury of the United States a fund to be known as the Securities and Exchange Commission Investor Protection Fund. The Fund shall be available to the Commission, without further appropriation or fiscal year limitation, for paying awards to whistleblowers as provided in subsection (b) and funding the activities of the Inspector General of the Commission under section 78d(i) of this title. There shall be deposited into or credited to the Fund an amount equal to any monetary sanction collected by the Commission in any judicial or administrative action brought by the Commission under the securities laws that is not added to a disgorgement fund or other fund under section 308 of the Sarbanes-Oxley Act of 2002 or otherwise distributed to victims of a violation of the securities laws or the rules and regulations thereunder, underlying such action, unless the balance of the Fund at the time the monetary sanction is collected exceeds \$300,000,000; any monetary sanction added to a disgorgement fund or other fund under section 308 of the Sarbanes-Oxley Act of 2002 that is not distributed to the victims for whom the Fund was established, unless the balance of the disgorgement fund at the time the determination is made not to distributed the monetary sanction to such victims exceeds \$200,000,000 and all income from investments made under paragraph (4) [investments of portions of the Fund that are not required to meet current needs].

- Reference: 15 U.S.C. § 78u-6(g) (2017)
- The Commission shall, in accordance with this section, collect transaction fees and assessments that are designated to recover the costs to the Government of the annual appropriation to the Commission by Congress. . Fees collected pursuant to subsection (b), (c), and (d) for any fiscal year shall be deposited and credited as offsetting collections to the account providing appropriations to the Commission and except as provided in subsection (k) [lapses in appropriations] shall not be collected for any fiscal year except to the extent provided in advance in appropriation Acts.

- Reference: 15 U.S.C. § 78ee (2017)

*Reporting Requirements:* Not later than June 30 of each year after 2010, the Investor Advocate shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the objectives of the Investor Advocate for the following fiscal year.

- Reference: 15 U.S.C. § 78d(g)(6)(A) (2017)
- Not later than December 31 of each year after 2010, the Investor Advocate shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the activities of the Investor Advocate during the immediately preceding fiscal year.
  - Reference: 15 U.S.C. § 78d(g)(6)(B) (2017)
- Not later than 10 days after the date on which the Commission obligates amounts under this paragraph [funds from the Reserve Fund], the Commission shall notify Congress of the date, amount, and purpose of the obligation.
  - Reference: 15 U.S.C. § 78d(i)(3) (2017)
- Not later than December 31 of each year after 2015, the Advocate for Small Business Capital Formation shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the activities of the Advocate for Small Business Capital Formation during the immediately preceding fiscal year.
  - Reference: 15 U.S.C. § 78d(j)(6) (2017)
- Not later than 90 days after the end of each fiscal year, the Commission shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the conduct by the Commission of examinations of registered entities, enforcement investigations, and review of corporate financial securities filings.
  - Reference: 15 U.S.C. § 78d-6(a) (2017)
- Not later than 90 days after the date on which the Comptroller General submits each report under subsection (a) [triennial report on personnel management], the Commission shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report describing the actions taken by the Commission in response to the recommendations contained in the report under subsection (a).
  - Reference: 15 U.S.C. § 78d-7(d) (2017)
- Not later than 6 months after the end of each fiscal year, the Commission shall publish and submit to Congress a report that describes the responsibility of the management of the Commission for establishing and maintaining an adequate internal control structure and procedures for financial reporting and contains an assessment of the effectiveness of

the internal control structure and procedures for financial reporting of the Commission during that fiscal year.

- Reference: 15 U.S.C. § 78d-9(a) (2017)
- Upon receiving a notice under paragraph (3) that an annual or quarterly report includes a disclosure of an activity described in paragraph (1) [disclosure of certain activities relating to Iran], the Commission shall promptly transmit the report to . . .the Committee on Foreign Affairs and the Committee on Financial Services of the House of Representatives and the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate.
  - Reference: 15 U.S.C. § 78m(r) (2017)
- Not later than October 30 of each fiscal year beginning after July 21, 2010, the Commission shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on [the Whistleblower award program and the Securities and Exchange Commission Investor Protection Fund].
  - Reference: 15 U.S.C. § 78u-6(g)(5) (2017)
- The Securities and Exchange Commission shall establish a separate office within the Commission to administer and enforce the provisions of section 78u-6 of this title. Such office shall report annually to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on its activities, whistleblower complaints, and the responses of the Commission to such complaints.
  - Reference: 15 U.S.C. § 78u-7(d) (2017)
- The Commission. . . shall make an annual report to the Congress on its work for the preceding year, and shall include in each report whatever information, data, and recommendations for further legislation it considers advisable with regard to matters within its respective jurisdiction under this chapter.
  - Reference: 15 U.S.C. § 78w(b) (2017)

*Review Commissions:* None

*Advisory Commissions:* Not later than one hundred eighty days after June 4, 1975, the Commission shall establish a National Market Advisory Board. . .It shall be the responsibility of the Advisory Board to formulate and furnish to the Commission its views on significant regulatory proposals made by the Commission or any self-regulatory organization concerning the establishment, operation, and regulation of the markets for the securities in the United States.

- Reference: 15 U.S.C. § 78k-1(d) (2017)
- Within 90 days after October 16, 1990, the Commission shall (and at such times thereafter as the Commission may determine, the Commission may), after consultation with the Secretary of the Treasury and the Board of Governors of the Federal Reserve System, establish an advisory committee under the Federal Advisory Committee Act. The Advisory Committee shall be directed to consider and report to the Commission on such matters as the Commission, after consultation with the Secretary of the Treasury and the Board of Governors of the Federal Reserve System, determines, including the areas, if any, in which State commercial laws and related Federal laws concerning the transfer of certificated or uncertificated securities, limited interests (including security interests) in such securities, or the creation or perfection of security interests in such securities do not

provide the necessary certainty, uniformity, and clarity for purchasers, sellers, owners, lenders, borrowers, and financial intermediaries concerning their respective rights and obligations.

- Reference: 15 U.S.C. § 78q-1(f)(4) (2017)
- There is established within the Commission the Investor Advisory Committee. The Committee shall advise and consult with the Commission on regulatory priorities of the Commission, issues relating to the regulation of securities products, trading strategies, and fee structures, and the effectiveness of disclosure; initiatives to protect investor interest; and initiatives to promote investor confidence and the integrity of the securities marketplace.
  - Reference: 15 U.S.C. § 78pp (2017)
- There is established within the Commission the Small Business Capital Formation Advisory Committee. The Committee shall provide the Commission with advise on the Commission's rules, regulations, and policies with regard to the Commission's mission of protecting investors, maintaining fair, orderly, and efficient markets, and facilitating capital formation, such as rules, regulations, and policies relate to capital raising by emerging, privately held small businesses and publicly traded companies with less than \$250,000,000 in public market capitalization through securities offerings, including private and limited offerings and initial and other public offerings; trading in the securities of emerging companies and smaller public companies; and public reporting and corporate governance requirements of emerging companies and smaller public companies.
  - Reference: 15 U.S.C. § 78qq (2017)

*Action Require Outside Approval:* The Commission and the Commodity Futures Trading Commission, by rule, regulation, or order, may jointly modify the listing standard requirements specified in subparagraph (A) or (D) of paragraph (3) to the extent such modification fosters the development of fair and orderly markets in security futures products, is necessary or appropriate in the public interest and is consistent with the protection of investors.

- Reference: 15 U.S.C. § 78f(h)(4)(A) (2017)
- The Commission and the Commodity Futures Trading Commission, by order, may jointly exempt any person from compliance with the listing standard requirement specified in subparagraph (E) of paragraph (3) to the extent such exemption fosters the development of fair and orderly markets in security futures products, is necessary or appropriate in the public interest, and is consistent with the protection of investors.
  - Reference: 15 U.S.C. § 78f(h)(4)(B) (2017)
- To the extent necessary or appropriate in the public interest, to promote fair competition, and consistent with the promotion of market efficiency, innovation, and expansion of investment opportunities, the protection of investors, and the maintenance of fair and orderly markets, the Commission and the Commodity Futures Trading Commission shall jointly issue such rules, regulations, or orders as are necessary and appropriate to permit the offer and sale of a security futures product traded on or subject to the rules of a foreign board of trade to United States persons.
  - Reference: 15 U.S.C. § 78f(k)(1) (2017)
- It shall be unlawful for any broker, dealer, or member of a national securities exchange to, directly or indirectly, extend or maintain credit to or for, or collect margin from any

customer on, any security futures product unless such activities comply with the regulations which the [Federal Reserve] Board shall prescribe pursuant to subparagraph (B) or if the Board determines to delegate the authority to prescribe such regulations which the Commission and the Commodity Futures Trading Commission shall jointly prescribe pursuant to subparagraph (B).

- Reference: 15 U.S.C. § 78g(c)(2)(A) (2017)
- Prior to commencing a rulemaking order under this subsection, the Commission shall consult with and seek the concurrence of the [Federal Reserve] Board concerning the imposition of broker or dealer registration requirements with respect to any new hybrid product.
  - Reference: 15 U.S.C. § 78o(j)(1) (2017)
- The Federal banking agencies, the Commission, the Secretary of Housing and Urban Development, and the Director of the Federal Housing Finance Agency shall jointly issue regulations to exempt qualified residential mortgages from risk retention requirements of this subsection.
  - Reference: 15 U.S.C. § 78o-11(e)(4) (2017)

*Legislative Veto:* None

*Adjudication:*<sup>465</sup> In addition to its existing authority, the Securities and Exchange Commission shall have the authority to delegate, by published order or rule, any of its functions to . . . an administrative law judge. . . including functions with respect to hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business or matter.

- Reference: 15 U.S.C. § 78d-1(a) (2017)
- The Commission, by order, may censure or place limitations upon the activities, functions, or operations of any registered securities information processor or suspect for a period not exceeding twelve months or revoke the registration of any such processor, if the Commission finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or revocation is in the public interest, necessary or appropriate for the protection of investors or to assure the prompt, accurate, or reliable performance of the functions of such securities information processor, and that such securities information processor has violated or is unable to comply with any provision of this chapter or the rules or regulations thereunder.
  - Reference: 15 U.S.C. § 78k-1(b)(6) (2017)
- The Commission, by rule, is authorized to prohibit brokers and dealers from effectuating transactions in securities registered pursuant to section 78l(b) of this title otherwise than on a national securities exchange, if the Commission finds, on the record after notice and opportunity for hearing, that as a result of transactions in such securities effected otherwise than on a national securities exchange the fairness or orderliness of the markets for such securities has been affected in a manner contrary to the public interest or the protection of investors; no rule of any national securities exchange unreasonably impairs the ability of any dealer to solicit or effect transactions in such securities for his own account or unreasonably restricts competition among dealers in such securities or between dealers acting in the capacity of market makers who are specialists in such

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<sup>465</sup> Employs administrative law judges. Association of Administrative Law Judges. “Agencies Employing Administrative Law Judges,” <http://www.aalj.org/agencies-employing-administrative-law-judges> (accessed October 30, 2017).

securities and such dealers who are not specialists in such securities, and the maintenance or restoration of fair and orderly markets in such securities may not be assured through other lawful means under this chapter.

- Reference: 15 U.S.C. § 78k-1(c)(3)(A) (2017)
- The Commission is authorized, by order, as it deems necessary or appropriate for the protection of investors to deny, to suspend the effective date of, to suspend for a period not exceeding twelve months, or to revoke the registration of a security, if the Commission finds, on the record after notice and opportunity for hearing, that the issuer, or such security has failed to comply with any provision of this chapter or the rules and regulations thereunder.
  - Reference: 15 U.S.C. § 78l(j) (2017)
- The Commission, by order, shall censure, place limitations on the activities, functions, or operations of, suspend for a period not exceeding twelve months, or revoke the registration of any broker or dealer if it finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or revocation is in the public interest and that such broker or dealer, whether prior or subsequent to becoming so associated [has committed such action worthy of revocation].
  - Reference: 15 U.S.C. § 78o(b)(4) (2017)
- With respect to any person who is associated, who is seeking to become associated, or, at the time of the alleged misconduct, who was associated or was seeking to become associated with a broker or dealer, or any person participating, or, at the time of the alleged misconduct, who was participating, in an offering of any penny stock, the Commission, by order, shall censure, place limitation on the activities or functions of such person, or suspend for a period not exceeding 12 months, or bar any such person from being associated with a broker, dealer, investment advisor, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, or from participating in an offering of penny stock if the Commission finds, on the record after notice and opportunity for a hearing, that such censure, placing of limitations, suspension, or bar is in the public interest and that such person has committed or omitted any act, or is subject to an order or finding, enumerated in subparagraph (A), (D), (E), (H), or (G) of paragraph (4) of this subsection; has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within 10 years of the commencement of the proceedings under this paragraph; or is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4).
  - Reference: 15 U.S.C. § 78o(b)(6)(A) (2017)
- The Commission, by order, shall censure, place limits on the activities, functions, or operations, suspend for a period not exceeding twelve months, or revoke the registration of any municipal securities dealer or municipal advisors, if it finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, denial, suspension, or revocation, is in the public interest and that such municipal securities dealer or municipal advisor has committed or omitted any act , or is subject to an order or finding, enumerated in subparagraph (A), (D), (E), (H), or (G) or paragraph (4) of section 78o(b) of this title, has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within ten years of the commencement of the proceedings under this paragraph, or is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4).

- Reference: 15 U.S.C. § 78o-4(c)(2) (2017)
- The Commission, by order, shall censure or place limitations on the activities or functions of any person associated, seeking to become associated, or at the time of the alleged misconduct, associated or seeking to become associated with a municipal securities dealer, or suspend for a period not exceeding 12 months or bar any such person from being associated with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, if the Commission finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, denial, suspension, or revocation, is in the public interest and that such person has committed any act, or is subject to an order or finding, enumerated in subparagraph (A), (D), (E), (H), or (G) or paragraph (4) of section 78o(b) of this title, has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within 10 years of the commencement of the proceedings under this paragraph, or is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4).
  - Reference: 15 U.S.C. § 78o-4(c)(4) (2017)
- The Commission is authorized, by order, if in its opinion such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise, in furtherance of the purposes of the chapter, to remove from office or censure any person who is, or at the time of the alleged violation or abuse was, a member or employee of the Board, who, the Commission finds, on the record after notice and opportunity for hearing, has willfully (A) violated any provision of this chapter, the rules and regulations thereunder, or the rules of the Board or (B) abused his authority.
  - Reference: 15 U.S.C. § 78o-4(c)(8) (2017)
- The Commission, by order, shall censure, place limitations on the activities, functions, or operations of, suspend for a period not exceeding 12 months, or revoke the registration of such government securities broker or government securities dealer, if it finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or reaction is in the public interest and that such government securities broker or government securities dealer, or any person associated with such government securities broker or government securities dealer (whether prior or subsequent to becoming so associated), has committed or omitted any act, or is subject to an order or finding, enumerated in subparagraph (A), (D), (E), (H), or (G) of paragraph (4) of section 78o(b) of this title, has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within 10 years of the commencement of the proceedings under this paragraph, or is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4).
  - Reference: 15 U.S.C. § 78o-5(c)(1)(A) (2017)
- The Commission, by order, shall censure, place limitations on the activities or functions of any person who is, or at the time of the alleged misconduct was, associated or seeking to become associated with a government securities broker or government securities dealer registered or required to register under subsection (a)(1)(A) of this section or suspect for a period not exceeding 12 months or bar any such person from being associated with such a government securities broker or government securities dealer, if the Commission finds on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, or bar is in the public interest and that such person has committed

or omitted any act, or is subject to an order or finding, enumerated in subparagraph (A), (D), (E), (H), or (G) of paragraph (4) of section 78o(b) of this title, has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within 10 years of the commencement of the proceedings under this paragraph, or is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4).

- Reference: 15 U.S.C. § 78o-5(c)(1)(C) (2017)
- The Commission, by order, shall censure, place limitations on the activities, functions, or operations of, suspend for a period not exceeding 12 months, or revoke the registration of any nationally recognized statistical rating organization, or with respect to any person who is associated with, who is seeking to become associated with, or, at the time of the alleged misconduct, who was associated or was seeking to become associated with a nationally recognized statistical rating organization, the Commission, by order, shall censure, place, limitations on the activities or functions of such person, suspend for a period not exceeding 1 year, or bar such person from being associated with a nationally recognized statistical rating organization, if the Commission finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, suspension, bar, or revocation is necessary for the protection of investors and in the public interest and that such nationally recognized statistical rating organization, or any person associated with such an organization, whether prior to or subsequent to become so association [has committed a problematic act].
  - Reference: 15 U.S.C. § 78o-7(d)(1) (2017)
- The Commission may temporarily suspend or permanently revoke the registration of a nationally recognized statistical rating organization with respect to a particular class or subclass of securities, if the Commission finds, on the record after notice and opportunity for hearing, that the nationally recognized statistical rating organization does not have adequate financial and managerial resources to consistently product credit ratings with integrity.
  - Reference: 15 U.S.C. § 78o-7(d)(2) (2017)
- The Commission, by order, shall censure, place limitations on the activities, functions, or operations of, or revoke the registration of any security-based swap dealer or major security-based swap participant that has registered with the Commission pursuant to subsection (b) if the Commission finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, or revocation is in the public interest and that such security-based swap dealer of major security-based swap participant, or any person associated with such security-based swap dealer or major security-based swap participant effecting or involved in effecting transactions in security-based swaps on behalf of such security-based swap dealer or major security-based swap participant, whether prior or subsequent to becoming so associated [has committed bad acts].
  - Reference: 15 U.S.C. § 78o-10(1)(2) (2017)
- With respect to any person who is associated, who is seeking to become associated, or, at the time of the alleged misconduct, who was associated or was seeking to become associated with a security-based swap dealer or major security-based swap participant for the purpose of effecting or being involved in effecting security-based swaps on behalf of such security-based swap dealer or major security-based swap participant, the Commission, by order, shall censure, place limitations on the activities or functions of such person, or suspend for a period not exceeding 12 months, or bar such person from

being associated with a security-based swap dealer or major security-based swap participant, if the Commission finds, on the record after notice and opportunity for a hearing, that such censure, palcing of limitations suspension, or bar is in the public interest and that such persno [has committed bad acts].

- Reference: 15 U.S.C. § 78o-10(l)(3) (2017)
- In any proceeding instituted pursuant to sections 78o(b)(4), 78o(b)(6), 78o-6, 78o-4, 78o-5, 78o-7, or 78q-1 of this title against any person, the Commission or the appopriate regulatory may impose a civil penalty if it finds, on the record after notice and opportunity for hearing, that such penalty is in the public interest and that such person has [committed bad acts].
  - Reference: 15 U.S.C. § 78u-2(a)(1) (2017)
- In any proceeding instituted udner section 78u-3 of this title against any person, the Commission may impose a civil penalty, if the Commission finds, on the record after notice and oportunity for hearing, that such person is violating or has violated any provision of this chapter, or any rule or regulation issued udner this chpater; or is or was a cause of the violation of any provision of this chapter, or any rule or regulation issued under this chapter.
  - Reference: 15 U.S.C. § 78u-2(a)(2) (2017)

### **SECURITIES INVESTOR PROTECTION CORPORATION**

*Date of Creation:* December 30, 1970<sup>466</sup>

*Statute:* 15 U.S.C. §§ 78aaa-78lll (2017)

*Authorizing Language:* There is hereby established a body corporation to be known as the “Securities Investor Protection Corporation”. . .SIPC shall not be an agency or establishment of the United States Government and excdept as otherwise provided in this chapter, be subject to, and have all the powers conferred upon a nonprofit corporation by, the District of Columbia Nonprofit Corporation Act.

- Reference: 15 U.S.C. § 78ccc(a)(1) (2017)

*Commissioners/Board Members:* The Board of Directors shall consist of seven persons as follows: one director shall be appointed by the Secretary of the Treasury from among the officers and employees of the Department of the Treasury; One director shall be appointed by the Federal Reserve Board from among the officers and employees of the Federal Reserve Board; Five directors shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 15 U.S.C. § 78ccc(c)(2) (2017)

*Quorum Rules:* None

*Agency Specific Personnel:* In addition to the powers granted to SIPC elsewhere in this chapter, SIPC shall have the power. . .subject to the provisions of subsection (c) [relating to the Board of Directors], to elect or appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them and fix the penalty thereof.<sup>467</sup>

- Reference: 15 U.S.C. § 78ccc(b)(7) (2017)

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<sup>466</sup> Securities Investor Protection Act of 1970, Pub. L. No. 91-598, 84 Stat. 1636 (1970).

<sup>467</sup> Not agency

*Limitation on Appointment:* [Of the five PAS directors] three such directors shall be selected from among persons who are associated with, and representative of different aspects of, the securities industry, not all of whom shall be from the same geographical area of the United States, and two such directors shall be selected from the general public from among persons who are not associated with a broker or dealer or associated with a member of a national securities exchange, within the meaning of section 78c(a)(18) or section 78(c)(a)(21), respectively, of this title, or similarly associated with any self-regulatory organization or other securities industry group, and who have not had any such association during the two years preceding appointment.

- Reference: 15 U.S.C. § 78ccc(c)(2)(C) (2017)

*Party Balancing:* None

*Fixed Terms:* Each director shall be appointed for a term of three years.

- Reference: 15 U.S.C. § 78ccc(c)(4)(A) (2017)

*Staggered Terms:* Of the directors first appointed under paragraph (2), two shall hold office for a term expiring on December 31, 1971, two shall hold office for a term expiring on December 31, 1972, and three shall hold office for a term expiring on December 31, 1973, as designated by the President at the time they take office. Such designation shall be made in a manner which will assure that no two persons appointed under the authority of the same clause of paragraph (2)(C) [five PAS directors] shall have terms which expire simultaneously.

- Reference: 15 U.S.C. § 78ccc(c)(4)(B) (2017)

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* A director may serve after the expiration of his term until his successor has taken office.

- Reference: 15 U.S.C. § 78ccc(c)(4)(C) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* The President shall designate a Chairman. . . from among those directors appointed under paragraph (2)(C)(ii) of this subsection [two PAS directors selected from general public not associated with broker or dealer].

- Reference:

*OMB Review:* None<sup>468</sup>

*Independent Litigating:* In addition to the powers granted to SIPC elsewhere in this chapter, SIPC shall have the power to sue and be sued, complain and defend, in its corporate name and through its own counsel, in any State, Federal, or other court.

- Reference: 15 U.S.C. § 78ccc(b)(1) (2017)

*Independent Sources of Funding:* In addition to the powers granted to SIPC elsewhere in this chapter, SIPC shall have the power. . . to lease, purchase, accept gifts or donations of or otherwise acquire, to own, hold, improve, use or otherwise deal in or with, and to convey, mortgage, pledge, lease, exchange, or otherwise dispose of, any property, real, personal or mixed, or any interest therein, wherever situated.

- Reference: 15 U.S.C. § 78ccc(b)(6) (2017)
- SIPC shall establish a “SIPC Fund.” All amounts received by SIPC (other than amounts paid directly to any lender pursuant to any pledge securing a borrowing by SIPC) shall be

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<sup>468</sup> Not agency

deposited to the fund, and all expenditures made by SIPC shall be made out of the fund. . .SIPC shall, by bylaw, impose upon its members such assessments as, after consultation with self-regulatory organizations, SIPC may deem necessary and appropriate to establish and maintain the fund and to repau any borrowings by SIPC.

- Reference: 15 U.S.C. § 78ddd (2017)

*Reporting Requirements:* Not later than April 5 of any calendar year in which a determination is required to be made under paragraph (1). . .the Board of Directors of SIPC shall submit a report to the Congress stating the standard maximum cash advance amount.

- Reference: 15 U.S.C. § 78fff-3(e)(3)(B) (2017)
- As soon as practicable after the close of each fiscal year, SIPC shall submit to the Commission a written report relative to the conduct of its business, and the exercise of the other rights and powers granted by this chapter, during such fiscal year. . .The Commission shall transmit such report to. . .the Congress with such comment thereof as the Commission may deem appropriate.
- Reference: 15 U.S.C. § 78ggg(c)(2) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* SIPC shall file with the [Securities and Exchange] Commission a copy of any determination made pursuant to paragraph (A)(i). Within thurty days after the date of such filing, or within such longer period as the Commission may designate of not more than ninety days after such date if it finds such longer period to be appropriate and publishes its reasons for so finding, the Commission shall consistent with the public interest and the purposes of this chapter, affirm, reverse, or amend any such determination of SIPC.

- Reference: 15 U.S.C. § 78ccc(a)(2)(B) (2017)
- The Board of Directors of the SIPC shall file with the [Securities and Exchange] Commission a copy of any proposed bylaw or any proposed amendment to or repeal of any bylaw of SIPC, accompanied by a concise general statement of the basis and purpsoe of such proposed bylaw change. Each such proposed bylaw change shall take effect thirty days after the date of the filing of a copy thereof with the Commission, or upon such later date as SIPC may designate or such earlier date as the Commission may determine unless the Commission, by notice to SIPC setting forth the reasons therefor, disapproves such proposed bylaw change as being contrary to the public interest or contrary to the purposes of this chapter or the Commission finds that such proposed bylaw change invoves a matter of such significant publci itnerst that public comment shall be obtained, in which case it may, after notifying SIPC in writing of such finding, require that the procedures set forth in paragraph (2) be followed with respect to such proposed bylaw change, in the same manner as if such proposed bylaw change were a proposed rule change within the meaning of such paragraph.
- Refernce: 15 U.S.C. § 78ccc(e)(1) (2017)
- The Board of Directors of SIPC shall file with the [Securities and Exchange] Commission, in accordance with such rules as the Commission may prescribe, a copy of any proposed rule or any proposed amendment to or repeal of any rule of SIPC, accompanied by a concise general statement of the basis and purpsoe of such proposed rule change. . .No proposed rule change shall take effect unless approved by the Commission or otherwise permitted in accordance with the provisions of this paragraph.

- Reference: 15 U.S.C. § 78ccc(e)(2) (2017)
- Not later than January 1, 2011, and every 5 years thereafter, and subject to the approval of the Commission as provided under section 78ccc(e)(2) of this title, the Board of Directors of SIPC shall determine whether an inflation adjustment to the standard maximum cash advance is appropriate.
  - Reference: 15 U.S.C. § 78fff-3(e)(1) (2017)

*Legislative Veto:* None

*Adjudication:* None

## **SMALL BUSINESS ADMINISTRATION**

*Date of Creation:* July 30, 1953<sup>469</sup>

*Statute:* 15 U.S.C. §§ 631-657s (2017)

*Authorizing Language:* In order to carry out the policies of this chapter there is created an agency under the name “Small Business Administration,” which Administration shall be under the general direction and supervision of the President and shall not be affiliated with or be within any other agency or department of the Federal Government.

- Reference: 15 U.S.C. § 633(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* In carrying out the provisions of sections 634a to 634g of this title, the Chief Counsel for Advocacy may employ and fix the compensation of such additional staff personnel as is deemed necessary, without regard to the provisions of Title 5, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates but a rates not in excess of the lowest rate for GS-15 of the General Schedule: Provided however, That not more than 14 staff personnel at any one time may be employed and compensated at a rate not in excess of GS-15, step 10, of the General Schedule.

- Reference: 15 U.S.C. § 634d(1) (2017)

*Limitation on Appointment:* [The Administrator] shall be appointed from civilian life. . .and who shall be a person of outstanding qualifications known to be familiar and sympathetic with small-business needs and problems.

- Reference: 15 U.S.C. § 633(b)(1) (2017)
- The Chief Hearing Officer shall be. . .an attorney licensed by a State, commonwealth, territory or possession of the United States, or the District of Columbia.
  - Reference 15 U.S.C. § 634(i)(2)(A)(i) (2017)
- The Chief Counsel for Advocacy. . .shall be appointed from civilian life.
  - Reference: 15 U.S.C. § 634a (2017)
- The disaster planning function of the Administration shall be assigned to an individual appointed by the Administrator who is not an employee of the Office of Disaster Assistance of the Administration; has proven management ability; has substantial knowledge in the field of disaster readiness and emergency response; and has demonstrated significant experience in the area of disaster planning.

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<sup>469</sup> Small Business Act of 1953, Pub. L. No. 163, 67 Stat. 230 (1953).

- 15 U.S.C. § 636h(a) (2017)

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* The Deputy Administrator shall be Acting Administrator of the Administration during the absence or disability of the Administrator or in the event of a vacancy in the office of the Administrator.

- Reference: 15 U.S.C. § 633(b)(1) (2017)

*Who is Head of Agency:* The management of the Administration shall be vested in an Administrator who shall be appointed. . .by the President, by and with the advice and consent of the Senate.

- Reference: 15 U.S.C. § 633(b)(1) (2017)

*OMB Review:* None<sup>470</sup>

*Independent Litigating:* None

*Independent Sources of Funding:* There are established in the Treasury the following revolving funds: (A) a disaster loan fund which shall be available for the financing functions performed under sections 634(e), 636(b)(1), 636(b)(2), 636(b)(3), 636(b)(4), 636(d)(2), and 636(m) of this title; and (B) a business loan and investment fund which shall be available for financing functions performed under sections 634(g) and 637(a) of this title, and titles III, IV, and V of the Small Business Investment Act of 1958. All repayments of loans and debentures, payments of interest and other receipts arising out of transactions heretofore or hereafter entered into by the Administration (A) pursuant to sections 634(e), 636(b)(1), 636(b)(2), 636(b)(3), 636(b)(4), 646(b)(5), 636(b)(6), 636(b)(7), 636(b)(8), 636(d)(2) and 636(g) of this title, shall be paid into a disaster loan fund and (B) pursuant to sections 635(g), 636(a), 636(h), 636(i), 636(l), 636(m), and 637(a) of this title, and titles III, IV, and V of the Small Business Investment Act of 1958 shall be paid into the business loan and investment fund.

- Reference: 15 U.S.C. § 633(c)
- In the performance of, and with respect to, the functions, powers, and duties vested in him by this chapter the Administrator may. . .under regulations prescribed by him, assign or sell at public or private sale, or otherwise dispose of for cash or credit, in his discretion and upon such terms and conditions for such consideration as the Administrator shall determine to be reasonable, any evidence of debt, contract, claim, personal property, or security assigned to or held by him in connection with the payment of loans granted under this chapter, and to collect or compromise all obligations assigned to or held by him and all legal or equitable rights accruing to him in connection with the payment of such loans until such time as such obligations may be referred to the Attorney General for suit or collection.
  - Reference: 15 U.S.C. § 634(b)(2) (2017)

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<sup>470</sup> However, legislative communications from the the SBA’s Chief Counsel for Advocacy have legislative bypass. Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget “Bypass” Authorities (Feb. 20, 2001), *available at* <http://www.citizen.org/documents/OMBDocument1.pdf>.

- In the performance of, and with respect to, the functions, powers, and duties vested in him by this chapter the Administrator may. . .impose, retain, and use any those fees which are specifically authorized by law or which are in effect on September 30, 1994, and in the amounts and at the rates in effect on such date.
  - Reference: 15 U.S.C. § 634(b)(12) (2017)
- In the performance of, and with respect to, the functions, powers, and duties vested in him by this chapter the Administrator may. . .require any lender authorized to make loans under section 636 of this title to pay examination and review fees, which shall be deposited into the account for salaries and expenses of the Administration, and shall be available for the costs of examinations, reviews, and other lender oversight activities.
  - Reference: 15 U.S.C. § 634(b)(14) (2017)
- The Administration may collect a fee for any loan guaranteed sold into the secondary market under subsection (f) in an amount equal to not more than 50 percent of the portion of the sale price that exceeds 110 percent of the outstanding principal amount of the portion of the loan guaranteed by the Administration. Any such fee imposed by the Administration shall be collected by the Administration or by the agent which carries out on behalf of the Administration the central registration functions required by subsection (h) of this section and shall be paid to the Administration and used solely to reduce the subsidy on loans guaranteed under section 636(a) of this Title.
  - Reference: 15 U.S.C. § 634(g)(4)(A) (2017)
- All moneys of the Administration not otherwise employed may be deposited with the Treasury of the United States subject to check by authority of the Administration.
  - Reference: 15 U.S.C. § 635(a) (2017)
- Any carrying out its functions under subsections (i) and (j) and section 637(a) of this title [functions relating to loans and financial assistance for projects providing technical or management assistance to small businesses in low-income areas], the Administration is authorized. . .to accept, in the name of the Administration, and employ or dispose of in furtherance of the purposes of this chapter, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise.
  - Reference: 15 U.S.C. § 636(k)(2) (2017)
- In carrying out its functions under this chapter and to carry out the activities authorized by title IV of the Women's Business Ownership Act of 1988, the Administration is authorized to accept, in the name of the administration, and employ or dispose of in furtherance of the purposes of this chapter, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise.
  - Reference: 15 U.S.C. § 637(b)(1)(G) (2017)
- To the fullest extent the Administration deems practicable, it shall make a fair charge for the use of Government-owned property and make and let contracts on a basis that will result in a recovery of the direct costs incurred by the Administration.
  - Reference: 15 U.S.C. § 643 (2017)

*Reporting Requirements:* The Administration shall submit to the Committees on Appropriations, Senate Select Committee on Small Business, and the Committee on Small Business of the House of Representatives, as soon as possible after beginning of each calendar quarter, a full and complete report on the status of each of the funds established by paragraph (1) [revolving funds].

- Reference: 15 U.S.C. § 633(c)(4) (2017)

- Business-type budgets for each of the funds established by paragraph (1) [revolving funds] shall be prepared, transmitted to the Committees on Appropriations, the Senate Select Committee on Small Business, and the Committee on Small Business of the House of Representatives, and considered, and enacted in the manner prescribed by law for wholly owned Government corporations.
  - Reference: 15 U.S.C. § 633(c)(4) (2017)
- The Administration shall compile a separate list of applications for assistance under this paragraph, indicating which applications were accepted and which were denied, and shall report periodically to the Congress on the status of employee-owned firms assisted by the Administration.
  - Reference: 15 U.S.C. § 636(a)(15)(E) (2017)
- The Administration shall notify the Committees on Small Business of the Senate and the House of Representatives not later than 15 days before making any significant policy or administrative change affecting the operation of the loan program under this subsection.
  - Reference: 15 U.S.C. § 636(a)(24) (2017)
- Notwithstanding any other provision of law, not later than 10 days before the closing date of an application period for a major disaster (including any major disaster relating to which the Administrator declares eligibility for additional disaster assistance under paragraph (9)), the Administrator, in consultation with the Administrator of the Federal Emergency Management Agency, shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report that includes the deadline for submitting applications for assistance under this chapter relating to that major disaster; information regarding the number of loan applications and disbursements processed by the Administrator relating to that major disaster for each day during the period beginning on the date on which that major disaster was declared and ending on the date of that report; and an estimate of the number of potential applicants that have not submitted an application relating to that major disaster.
  - Reference: 15 U.S.C. § 636(b)(4)(B) (2017)
- In carrying out this subsection, if the number of full-time employees for either the Office of Disaster Assistance or the Disaster Cadre of the Administration is below the level described in subparagraph (A) for that office, not later than 21 days after the date on which that staffing level decreased below the level described in subparagraph (A), the Administrator shall submit to the Committee on Appropriations and the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Appropriations and Committee on Small Business of the House of Representatives, a report detailing staffing levels on that date; requesting, if practicable and determined appropriate by the Administrator, additional funds for additional employees; and containing such additional information, as determined appropriate by the Administrator.
  - Reference: 15 U.S.C. § 636(b)(7)(B) (2017)
- Not later than April 30 of each year, the Administrator shall submit a report to the Congress on the Program that shall include the following: [information on the cost, benefits, and impacts of the small business and capital ownership development program]
  - Reference: 15 U.S.C. § 636(j)(16)(B) (2017)
- The purposes of the Microloan Program are . . . to report to the Committees on Small Business of the Senate and the House of Representatives on the effectiveness of the

microloan program and the advisability and feasibility of implementing such a program nationwide.

- Reference: 15 U.S.C. § 636(m)(1)(A)(iii)(IV) (2017)
- Not later than the fifth business day of each month during the applicable period for a major disaster, the Administrator shall submit to the Committee on Small Business and Entrepreneurship and the Committee on Appropriations of the Senate and to the Committee on Small Business and the Committee of Appropriations of the House of Representatives a report on the operation of the disaster loan program authorized under section 626 of this title for that major disaster during the preceding month.
  - Reference: 15 U.S.C. § 636k(a) (2017)
- Each week during a disaster update period, the Administration shall submit to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives a report on the operation of the disaster loan program of the Administration for the area in which the President declared a major disaster.
  - Reference: 15 U.S.C. § 636k(b) (2017)
- During any period for which the Administrator declares eligibility for additional disaster assistance under paragraph (9) of section 636(b) of this title, as amended by this Act, the Administrator shall, on a monthly basis, submit to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives a report on the disaster assistance operations of the Administration with respect to the applicable major disaster.
  - Reference: 15 U.S.C. § 636k(c) (2017)
- On the same date that the Administrator notifies any committee of the Senate or House of Representatives that supplemental funding is necessary for the disaster loan program of the Administration in any fiscal year, the Administrator shall notify in writing the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives regarding the need for supplemental funds for that loan program.
  - Reference: 15 U.S.C. § 636k(d) (2017)
- Not later than 6 months after the date on which the President declares a major disaster, and ever 6 months thereafter until the date that is 18 months after the date on which the major disaster was declared, the administrator shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives regarding Federal contracts awarded as a result of that major disaster.
  - Reference: 15 U.S.C. § 636k(e) (2017)
- Not later than March 31 of each year, the Administrator of the Small Business Administration shall provide the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate a report, based on data available through existing systems, that sets forth, by agency (and to the extent practicable, by type of goal or plan), the following information: the percentage of entities required to submit reports pursuant to section 637(d)(6) of this title that filed such reports and that failed to file such reports during the prior fiscal year; the percentage of entities filing such reports that met, exceeded, or failed to meet goals set forth in their subcontracting plans during the prior fiscal year; and the aggregate value

by which such entities exceeded, or failed to meet, their subcontracting goals during the prior fiscal year.

- Reference: 15 U.S.C. § 637d(2) (2017)
- It shall be the duty of the Administration, and it is empowered. . .to report not less than annually to the Committee on Small Business of the Senate, and to the Committee on Science and the Committee on Small Business of the House of Representatives, on the SBIR and STTR programs of the Federal agencies and the Administration's information and monitoring efforts related to the SBIR and STTR programs.
  - Reference: 15 U.S.C. § 638(b)(7) (2017)
- The Administrator shall make a determination regarding an application submitted under subparagraph (A) not later than 30 days before the first day of the fiscal year for which the application is submitted. . .and make a copy of the determination and any related materials available to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives.
  - Reference: 15 U.S.C. § 638(gg)(2)(B)
- The Administrator shall collect data and provide to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business, the Committee on Science, Space, and Technology, and the Committee on Appropriations of the House of Representatives a report on the use of funds under this subsection, including funds used to achieve the objectives of paragraph (2)(A) and any use of the waiver authority under paragraph (2)(B).
  - Reference: 15 U.S.C. § 638(mm)(6) (2017)
- The Administration shall, as soon as practicable each fiscal year make a comprehensive annual report to. . .the president of the Senate, the Senate Select Committee on Small Business, and the Speaker of the House of Representatives.
  - Reference: 15 U.S.C. § 639(a) (2017)
- The Administration shall make a report to. . .the President of the Senate, and the Speaker of the House of Representatives, to the Senate Select Committee on Small Business and to the Committee on Small Business of the House of Representatives, as soon as practicable each fiscal year, showing as accurately as possible for each such period the amount of funds appropriated to it that it has expended in the conduct of each of its principal activities such as lending, procurement, contracting, and providing technical and managerial aids.
  - Reference: 15 U.S.C. § 639(b) (2017)
- The Administration shall transmit, not later than December 31 of each year, to the Senate Select Committee on Small Business and Committee on Small Business of the House of Representatives a sealed report with respect to complaints alleging illegal conduct by employees of the Administration which were received or acted upon by the Administration during the preceding fiscal year and investigations undertaken by the Administration, including external and internal audits and security and investigation reports.
  - Reference: 15 U.S.C. § 639(g) (2017)
- The Administration shall transmit, not later than March 31 of each year, to the Committees on Small Business of the Senate and House of Representatives a report on the secondary market operations during the preceding calendar year.

- Reference: 15 U.S.C. § 639(h) (2017)
- Not later than 60 days after receiving a report from each Federal agency under paragraph (1) with respect to a fiscal year [reporting on goals for procurement contracts to small business concerns], the Administrator shall submit to . . . Congress. . . a report that includes [assessment of goals].
  - Reference: 15 U.S.C. § 644(h)(2) (2017)
- Not later than 1 year after December 21, 2000, and annually in March thereafter, the Administration shall transmit a report on contract bundling to the Committees on Small Business of the House of Representatives and the Senate.
  - Reference: 15 U.S.C. § 644(p)(4) (2017)
- Not later than 90 days after September 27, 2010, and every 3 years thereafter, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report regarding procurement center representatives and commercial market representatives.
  - Reference: 15 U.S.C. § 644(q)(3) (2017)
- The Administrator shall annually provide to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate a certification of the accuracy and completeness of data reported on bundled and consolidated contracts.
  - Reference: 15 U.S.C. § 644(s)(5) (2017)
- The Administrator of the Small Business Administration shall submit each year to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report on the suspension and debarment actions taken by the Administrator during the year preceding the year of submission of the report.
  - Reference: 15 U.S.C. § 645a (2017)
- The Associate Administrator [for International Trade] shall submit an annual report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives that contains [a detailed description of Office of International Trade activities].
  - Reference: 15 U.S.C. § 649(f) (2017)
- On the date on which the Associate Administrator [for International Trade] publishes a report under clause (i) [annual report on Export Assistance Centers], the Associate Administrator shall notify the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives that the report has been published.
  - Reference: 15 U.S.C. § 649(k)(7)(B)(ii)
- The Administrator shall submit annually to the . . . Congress a report on activities within the scope of this section [national small business tree planting program].
  - Reference: 15 U.S.C. § 651(h) (2017)
- The Administration shall prepare and submit to the Committees on Small Business of the House of Representatives and the Senate a report on the effectiveness of all projects conducted under this section [women's business center program].
  - Reference: 15 U.S.C. § 656(j) (2017)

- Not later than 3 years after January 2, 2013, and every 5 years thereafter, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report on the results of each study under paragraph (1) [industries underrepresented by small business concerns owned and controlled by women] conducted during the 5-year period ending on the date of the report.
  - Reference: 15 U.S.C. § 656(o) (2017)
- The Associate Administrator [on veterans programs] shall submit to Congress progress reports on the implementation of this subsection [participation in TAP workshops].
  - Reference: 15 U.S.C. § 657b(d)(4) (2017)
- The Administrator shall submit an annual report to the Committee on Small Business of the Senate and the Committee on Science and the Committee on Small Business of the House of Representatives regarding [the FAST program].
  - Reference: 15 U.S.C. § 657d(f)(2) (2017)
- Not later than 60 days after the date on which all reports under subparagraph (B) relating to a year are submitted, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report summarizing the information regarding the Efficiency Program submitted by small business development centers participating in that program.
  - Reference: 15 U.S.C. § 657h(c)(2)(C)
- Not later than 45 days after the end of a fiscal year, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report on the disaster assistance operations of the Administration for that fiscal year.
  - Reference: 15 U.S.C. § 657o (2017)
- Not later than 2 years after February 4, 2009, and every 2 years thereafter, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report on the status of the nationwide campaign conducted under paragraph (1) [outreach regarding health insurance options for children].
  - Reference: 15 U.S.C. § 657p(b)(6) (2017)
- Not later than 2 years after January 2, 2013, and annually thereafter, the Administrator shall submit to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate a report [on mentor-protégé programs].
  - Reference: 15 U.S.C. § 657r(c) (2017)

*Review Commissions:* None

*Advisory Commissions:* The Administrator of the Small Business Administration shall establish a Small Business Manufacturing Task Force to address the concerns of small manufacturers. . . The Task Force shall evaluate and identify whether programs and services are sufficient to serve the needs of small manufacturers; actively promote the programs and services of the Small Business Administration that serve small manufacturers; and identify and study the unique conditions facing small manufacturers and develop and propose policy initiatives to support and assist small manufacturers.

- Reference: 15 U.S.C. § 631c (2017)

- In carrying out the provisions of sections 634a to 634g of this title, the Chief Counsel for Advocacy may. . .utilize the services of the National Advisory Council established pursuant to the provisions of section 637(b)(13) of this title and in accordance with the provisions of such statute, also appoint such other advisory boards or committees as is reasonably appropriate and necessary to carry out provisions of sections 634a to 634g of this title.
  - Reference: 15 U.S.C. § 634d(4) (2017)
- It shall also be the duty of the Administration and it is empowered, whenever it determines such action is necessary. . .to establish such advisory board and committees as may be necessary to achieve the purposes of this chapter and of the Small Business Investment Act of 1958.
  - Reference: 15 U.S.C. § 637(b)(13) (2017)
- There is established a National Small Business Development Center Advisory Board. . .The Board shall. . .advise, counsel, and confer with the Associate Administrator for Small Business Development Centers in carrying out the duties described in this section.
  - Reference: 15 U.S.C. § 648(i) (2017)

*Action Require Outside Approval:* The Administrator may, after consultation with the Attorney General and the Chairman of the Federal Trade Commission, and with prior written approval of the Attorney General, approve any agreement between small-usiness firms providing for a joint program of research and development, if the Adminsitrator finds that the joint program proposed with maintain and strengthen the free enterprise system and the economy of the Nation.

- Reference: 15 U.S.C. § 638(d)(2) (2017)

*Legislative Veto:* None

*Adjudication:*<sup>471</sup> There is established in the Administration an Office of Hearings and Appeals to impartially decide matters relating to program decisions of the Administrator for which Congress requires a hearing on the record or that the Administrator designates for hearing by regulation.

- Reference: 15 U.S.C. § 634(i)(1)
- Subject to the provisions of subparagraph (E), the Administration, prior to taking any action described in subparagraph (B) [denial of program admission based upon a negative determnation pursuant to paragraph (4), (5), or (6); a termination pursuant to section 636(j)(10)(F) of this title; a graduation pursuant to section 636(j)(10)(G) of this title; and the denial of a request to issue a waiver pursuant to paragrph (21)(B)], shall provide the small business concern that is subject of such action, an opportunity for a hearing on the record, in accordance with chapter 5 of Title 5.
  - Reference: 15 U.S.C. § 637(a)(9) (2017)
- Before revoking or suspending authority under subsection (d) or issuing a cease and desist order under subsection (e), the Adminsitrator shall. . .set forth that a hearing will be held before an administrative law judge at a time and place stated in the order. Such hearing shall be conducted pursuant to the provisions of sections 554, 556, and 557 of Title 5.
  - Reference: 15 U.S.C. § 650(f)(1) (2017)

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<sup>471</sup> Employs administrative law judges. Association of Administrative Law Judges. “Agencies Employing Administrative Law Judges,” <http://www.aalj.org/agencies-employing-administrative-law-judges> (accessed October 30, 2017).

- In the event of consent under subparagraph (C)(ii), or if upon the record made at a hearing under this subsection, the Administrator finds that any of the grounds specified in the notice of removal has been established, the Administrator may issue such orders of removal from office as the Administrator deems appropriate.
  - Reference: 15 U.S.C. § 650(g)(2)(D)
- The Administrator may, . . . upon application of an interested party, at any time previous to such failure, by order, after notice and opportunity for hearing which shall be conducted pursuant to sections 554, 556, and 557 of Title 5, exempt in whole or in part, any small business lending company or non-Federally regulated lender from paragraph (1), upon such terms and conditions and for such period of time as it deems necessary and appropriate, if the Administrator finds that such action is not inconsistent with the public interest or the protection of the Administration.
  - Reference: 15 U.S.C. § 650(j)(2)

### **SOCIAL SECURITY ADMINISTRATION**

*Date of Creation:* August 14, 1935<sup>472</sup>

*Statute:* 42 U.S.C. §§ 901-914 (2017)

*Authorizing Language:* There is hereby established, as an independent agency in the executive branch of the Government, a Social Security Administration.

- Reference: 42 U.S.C. § 901(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* Attorneys and experts may be appointed without regard to the civil service laws. [All other] officers and employees shall be appointed, and their compensation shall be fixed, in accordance with Title 5.

- Reference: 42 U.S.C. § 904(a)(1) (2017)

*Limitation on Appointment:* The Chief Actuary shall be appointed from individuals who have demonstrated, by their education and experience, superior expertise in the actuarial sciences.

- Reference: 42 U.S.C. § 902(c)(1) (2017)

*Party Balancing:* N/A

*Fixed Terms:* The Commissioner shall be appointed for a term of 6 years.

- Reference: 42 U.S.C. § 902(a)(3) (2017)
- The Deputy Commissioner shall be appointed for a term of 6 years.
  - Reference: 42 U.S.C. § 902(b)(2) (2017)

*Staggered Terms:* None

*For Cause:* An individual serving in the office of Commissioner may be removed from office only pursuant to a finding by the President of neglect of duty or malfeasance in office.

- Reference: 42 U.S.C. § 902(a)(3) (2017)

*Serve President:* None

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<sup>472</sup> Social Security Act, Pub. L. No. 271, 49 Stat. 620 (1935). The Social Security Administration was established as an independent agency in 1994. Social Security Independent and Program Improvements Act of 1994, Pub. L. No. 103-296, 108 Stat. 1464 (1994).

*Continuation until Replacement:* In any case in which a successor does not take office at the end of a Commissioner's term of office, such Commissioner may continue in office until the entry upon office of such a successor.

- Reference: 42 U.S.C. § 902(a)(3) (2017)

*Acting Service Rules:* The Deputy Commissioner shall be Acting Commissioner of the Administration during the absence or disability of the Commissioner and, unless the President designates another officer of the Government as Acting Commissioner, in the event of a vacancy in the office of the Commissioner.

- Reference: 42 U.S.C. § 902(b)(4) (2017)

*Who is Head of Agency:* There shall be in the Administration a Commissioner of Social Security who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 42 U.S.C. § 902(a)(1) (2017)

*OMB Review:* The Commissioner shall prepare an annual budget for the Administration, which shall be submitted by the President to the Congress without revision, together with the President's annual budget for the Administration.

- Reference: 42 U.S.C. § 904(b)(1)(A) (2017)

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* There shall be established a Social Security Advisory Board. On and after the date the Commissioner takes office, the Board shall advise the Commissioner on policies related to the old-age, survivors, and disability insurance program under subchapter II of this chapter, the program of special benefits for certain World War II veterans under subchapter VIII of this chapter, and the supplemental security income program, under subchapter XVI of this chapter.

- Reference: 42 U.S.C. § 903 (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:*<sup>473</sup> None

## **SOCIAL SECURITY ADVISORY BOARD**

*Date of Creation:* August 15, 1994<sup>474</sup>

*Statute:* 42 U.S.C. § 903 (2017)

*Authorizing Language:* There shall be established a Social Security Advisory Board.

- Reference: 42 U.S.C. § 903(a) (2017)

*Commissioners/Board Members:* The Board shall be composed of 7 members who shall be appointed as follows: 3 members shall be appointed by the President, by and with the advice and consent of the Senate. . . 2 members. . . shall be appointed by the President pro

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<sup>473</sup> Employs administrative law judges. Association of Administrative Law Judges. "Agencies Employing Administrative Law Judges," <http://www.aalj.org/agencies-employing-administrative-law-judges> (accessed October 30, 2017).

<sup>474</sup> Social Security Independent and Program Improvements Act of 1994, Pub. L. No. 103-296, 108 Stat. 1464 (1994).

tempore of the Senate with the advice of the Chairman and the Ranking Minority Member of the Senate Committee on Finance; 2 members. . .shall be appointed by the Speaker of the House of Representatives, with the advice of the Chairman and the Ranking Minority Member of the House Committee on Ways and Means.

- Reference: 42 U.S.C. § 903(c)(1) (2017)

*Quorum Rules:* Four members of the Board (not more than 3 of whom may be of the same political party) shall constitute a quorum for the purposes of conducting business.

- Reference: 42 U.S.C. § 903(g)(2) (2017)

*Agency Specific Personnel:* The Board shall, without regard to the provisions of Title 5 relating to the competitive service, appoint a Staff Director who shall be paid at a rate equivalent to a rate established for the Senior Executive Service under section 5382 of Title 5. The Board shall appoint such additional personnel as the Board determines necessary to provide adequate support for the Board, and may compensate such additional personnel without regard to the provisions of Title 5 relating to the competitive service.

- Reference: 42 U.S.C. § 903(i) (2017)

*Limitation on Appointment:* The members shall be chosen on the basis of their integrity, impartiality, and good judgment, and shall be individuals who are, by reason of their education, experience, and attainments, exceptionally qualified to perform the duties of members of the Board.

- Reference: 42 U.S.C. § 903(c)(2) (2017)

*Party Balancing:* The Board shall be composed of 7 members who shall be appointed as follows: 3 members shall be appointed by the President, by and with the advice and consent of the Senate. Not more than 2 of such members shall be from the same political party; 2 members (each member from a different political party) shall be appointed by the President pro tempore of the Senate with the advice of the Chairman and the Ranking Minority Member of the Senate Committee on Finance; 2 members (each member from a different political party) shall be appointed by the Speaker of the House of Representatives, with the advice of the Chairman and the Ranking Minority Member of the House Committee on Ways and Means.

- Reference: 42 U.S.C. § 903(c)(1) (2017)

*Fixed Terms:* Each member of the Board shall serve for a term of 6 years.

- Reference: 42 U.S.C. § 903(d) (2017)

*Staggered Terms:* The terms of service of members initially appointed under this section shall begin on October 1, 1994, and expire as follows: The terms of service of the members initially appointed by the President shall expire as designated by the President at the time of nomination, 1 each at the end of 2 years; 4 years and 6 years. The terms of service of members initially appointed by the President pro tempore of the Senate shall expire as designated by the President pro tempore of the Senate at the time of the nomination, 1 each at the end of 3 years and 6 years. The terms of service of members initially appointed by the Speaker of the House of Representatives shall expire as designated by the Speaker of the House of Representatives at the time of nomination, 1 each at the end of 4 years and 5 years.

- Reference: 42 U.S.C. § 903(d)(2) (2017)

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* A member of the Board shall be designated by the President to serve as Chairman for a term 4 years, coincident with the term of the President, or until the designation of a successor.

- Reference: 42 U.S.C. § 903(e) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **STATE JUSTICE INSTITUTE**

*Date of Creation:* November 8, 1984<sup>475</sup>

*Statute:* 42 U.S.C. §§ 10701-10713 (2017)

*Authorizing Language:* There is established a private nonprofit corporation which shall be known as the State Justice Institute.

- Reference: 42 U.S.C. § 10702(a) (2017)
- Except as otherwise specifically provided in this chapter, the Institute shall not be considered a department, agency, or instrumentality of the Federal Government.<sup>476</sup>
  - Reference: 42 U.S.C. § 10704(c)(1) (2017)

*Commissioners/Board Members:* The Institute shall be supervised by a Board of Directors, consisting of eleven voting members to be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 42 U.S.C. § 10703(a)(1) (2017)

*Quorum Rules:* A simple majority of the membership shall constitute a quorum for the conduct of business.

- Reference: 42 U.S.C. § 10703(f) (2017)

*Agency Specific Personnel:* Except as provided in paragraph (2) [work injuries, retirement, life and health insurance], officers and employees of the Institute shall not be considered officers or employees of the United States.

- Reference: 42 U.S.C. 10704(d) (2017)

*Limitation on Appointment:* The Board shall have both judicial and nonjudicial members, and shall, to the extent practicable, have a membership representing a variety of backgrounds and reflecting participation and interest in the administration of justice. The Board shall consist of six judges to be appointed in the manner provided in paragraph (3); one State court administrator, to be appointed in the manner provided in paragraph (3); and four members from the public sector. The President shall appoint six judges and one State court administrator from a list of candidates submitted to the President by the Conference

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<sup>475</sup> State Justice Institute Act of 1984, Pub. L. 98-620, 98 Stat. 3335 (1984).

<sup>476</sup> This status does not restrict the authority of OMB to review and submit comments upon the Institute's budget. 42 U.S.C. § 10704(c)(2) (2017)

of Chief Justices. The Conference of Chief Justices shall submit a list of at least fourteen individuals, including judges and State court administrators, whom the Conference considers best qualified to serve on the Board. Whenever the term of any of the members of the Board described in subparagraphs (A) and (B) terminates and that member is not to be reappointed to a new term, and whenever a vacancy otherwise occurs among those members, the President shall appoint a new member from a list of three qualified individuals submitted to the President by the Conference of Chief Justices. The President may reject any list of individuals submitted by the Conference under this paragraph and, if such a list is so rejected, the President shall request the Conference to submit to him another list of qualified individuals. Prior to consulting with or submitting a list to the President, the Conference of Chief Justices shall obtain and consider the recommendations of all interested organizations and individuals concerned with the administration of justice and the objectives of this chapter.

- Reference: 42 U.S.C § 10703(a) (2017)
- No member shall be reappointed to more than two consecutive terms immediately following such member's initial term.
  - Reference: 42 U.S.C. § 10703(c) (2017)

*Party Balancing:* [Of the four members from the public sector], not more than two of whom shall be of the same political party.

- Reference: 42 U.S.C. § 10703(a)(3) (2017)

*Fixed Terms:* The term of each voting member of the Board shall be three years.

- Reference: 42 U.S.C. § 10703(b)(1) (2017)

*Staggered Terms:* Five of the members first appointed by the President shall serve for a term of two years.

- Reference: 42 U.S.C. § 10703(b)(1) (2017)

*For Cause:* A member of the Board may be removed by a vote of seven members for malfeasance in office, persistent neglect of, or inability to discharge duties, or for any offense involving moral turpitude, but for no other cause.

- Reference: 42 U.S.C. § 10703(h) (2017)

*Serve President:* None

*Continuation until Replacement:* Each member of the Board shall continue to serve until the successor to such member has been appointed and qualified.

- Reference: 42 U.S.C. § 10703(b)(1) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* The Board shall annually elect a chairman from among its voting members.

- Reference: 42 U.S.C. § 10703(g) (2017)

*OMB Review:* None<sup>477</sup>

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* None

*Review Commissions:* None

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<sup>477</sup> See Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget "Bypass" Authorities (Feb. 20, 2001), available at <http://www.citizen.org/documents/OMBDocument1.pdf>. (suggest informal legislative bypass)

*Advisory Commissions:* None  
*Action Require Outside Approval:* None  
*Legislative Veto:* None  
*Adjudication:* None

## **SURFACE TRANSPORTATION BOARD**

*Date of Creation:* December 29, 1995<sup>478</sup>

*Statute:* 49 U.S.C. §§ 1301-1326 (2017)

*Authorizing Language:* The Surface Transportation Board is an independent establishment of the United States Government.

- Reference: 49 U.S.C. § 1301(a) (2017)

*Commissioners/Board Members:* The Board shall consist of 5 members, to be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 49 U.S.C. § 1301(b)(1) (2017)

*Quorum Rules:* None

*Agency Specific Personnel:* None

*Limitation on Appointment:* At all times at least 3 members of the Board shall be individuals with professional standing and demonstrated knowledge in the fields of transportation, transportation regulation, or economic regulation and at least 2 members shall be individuals with professional or business experience (including agriculture) in the private sector).

- Reference: 49 U.S.C. § 1301(b)(2) (2017)
- No individual may serve as a member of the Board for more than 2 terms.
  - Reference: 49 U.S.C. § 1301(b)(4) (2017)
- A member of the Board may not have a pecuniary interest in, hold an official relation to, or own stock in or bonds of, a carrier providing transportation by any mode.
  - Reference: 49 U.S.C. § 1301(b)(5) (2017)

*Party Balancing:* Not more than 3 members may be appointed from the same political party.

- Reference: 49 U.S.C. § 1301(b)(1) (2017)

*Fixed Terms:* The term of each member of the Board shall be 5 years.

- Reference: 49 U.S.C. § 1301(b)(3) (2017)

*Staggered Terms:* None

*For Cause:* The President may remove a member for inefficiency, neglect of duty, or malfeasance in office.

- Reference: 49 U.S.C. § 1301(b)(3) (2017)

*Serve President:* None

*Continuation until Replacement:* When the term of office of a member ends, the member may continue to serve until a successor is appointed and qualified, but for a period not to exceed one year.

- Reference: 49 U.S.C. § 1301(b)(3) (2017)

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<sup>478</sup> ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (1995). The Surface Transportation Board, originally housed in the Department of Transportation, became an independent establishment in 2015. Surface Transportation Board Reauthorization Act of 2015, Pub. L. No. 114-110, 129 Stat. 2228 (2015).

*Acting Service Rules:* The Board may designate a member to act as Chairman during any period in which there is no Chairman designated by the President.

- Reference: 49 U.S.C. § 1301(b)(6) (2017)

*Who is Head of Agency:* There shall be at the head of the Board a Chairman, who shall be designated by the President from among the members of the Board.

- Reference: 49 U.S.C. § 1301(c)(1) (2017)

*OMB Review:* If the Board submits any budget estimate, budget request, supplemental budget estimate, or other budget information, legislative recommendation, prepared testimony for a congressional hearing, or comment on legislation to the President or to the Office of Management and Budget, the Board shall concurrently submit a copy of such document to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. No officer or agency of the United States has any authority to require the Board to submit budget estimates or requests, legislative recommendations, prepared testimony for congressional hearings, or comments on legislation to any officer or agency of the United States for approval, comments, or review before submitted such recommendations, testimony, or comments to Congress.<sup>479</sup>

- Reference: 49 U.S.C. § 1303(d) (2017)

*Independent Litigating:* The Chairman shall appoint and supervise. . .attorneys to provide legal aid and service to the Board and its members, and to represent the Board in any case in court.

- Reference: 49 U.S.C. § 1301(c)(2)(A) (2017)
- Attorneys designated by the Chairman of the Board may appear for, and represent the Board in, any civil action brought in connection with any function carried out by the Board pursuant to this chapter or subtitle IV or as otherwise authorized by law.
  - Reference: 49 U.S.C. § 1303(b) 92017)

*Independent Sources of Funding:* None

*Reporting Requirements:* The Board shall annually transmit to the Congress a report on its activities, including each instance in which the Board has initiated an investigation on its own initiative under this chapter or subtitle IV.

- Reference: 49 U.S.C. § 1304 (2017)

*Review Commissions:* None

*Advisory Commissions:* There is established the Railroad-Shipper Transportation Advisory Council. . .The Council shall advise. . .the Chairman. . .with respect to rail transportation policy issues it considers significant, with particular attention to issues of importance to small shippers and small railroads, including car supply, rates, competition, and effective procedures for addressing legitimate shipper and other claims.

- Reference: 49 U.S.C. § 1325 (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

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<sup>479</sup> See also, Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget “Bypass” Authorities (Feb. 20, 2001), available at <http://www.citizen.org/documents/OMBDocument1.pdf>.

## TENNESSEE VALLEY AUTHORITY

*Date of Creation:* May 18, 1933<sup>480</sup>

*Statute:* 16 U.S.C. §§ 831-831ee (2017)

*Authorizing Language:* There is created a body corporate by the name of the “Tennessee Valley Authority.”

- Reference: 16 U.S.C. § 831 (2017)

*Commissioners/Board Members:* The Board of Directors of the Corporation shall be composed of 9 members appointed by the President by and with the advice and consent of the Senate.

- Reference: 16 U.S.C. § 831a(a)(1) (2017)

*Quorum Rules:* Five of the members of the Board shall constitute a quorum for the transaction of business. A vacancy on the Board shall not impair the power of the Board to act.

- Reference: 16 U.S.C. § 831a(e) (2017)

*Agency Specific Personnel:* The Board shall approve a compensation plan that specifies all compensaiton (including salary or any other pay, bonuses, benefits, incentives, and any other form of remuneration) for the chief executive officer and employees of the Corporation.

- Reference: 16 U.S.C. § 831a(i) (2017)
- The chief executive officer shall appoint, with the advice and consent of the Board, and without regard to the provisions of the civil service laws applicable to officers and employees of the United States, such managers, assistant managers, officers, employees, attorneys, and agents as are necessary for the transaction of the business of the Corporation.<sup>481</sup>

- Reference: 16 U.S.C. § 831b(a) (2017)

*Limitation on Appointment:* At least 7 of [the members] shall be a legal resident of the service area of the Corporation.

- Reference: 16 U.S.C. § 831a(a)(1) (2017)
- To be eligible to be appointed as a member of the Board, an individual shall be a citizen of the United States; shall have management expertise relative to a large for-profit or nonprofit corporate, government, or academic structure; [and] shall not be an employee of the Corporation.
  - Reference: 16 U.S.C. § 831a(b) (2017)
- In appointing members of the Board, the President shall . . . seek qualified members from among persons who reflect the diversity, including geographical diversity, and needs of the service area of the Corporation.
  - Reference: 16 U.S.C. § 831a(c)(2) (2017)
- To serve as chief executive officer of the Corporation, a person shall have senior executive-level management experience in large, complex organizations; shall not be a current member of the Board or have served as a member of the Board within 2 years before being appointed chief executive officer and shall comply with the conflict-of-interest policy adopted by the Board. In appointing a chief executive officer, the Board

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<sup>480</sup> Tennessee Valley Authority Act of 1933, Pub. L. No. 17, 48 Stat. 58 (1933).

<sup>481</sup> The Tennessee Valley Authority’s employees are not considered employees for the purposes of Title 5. 5 U.S.C. § 5102(a)(1)(ii); (2) (2017).

shall give particular consideration to appointing an individual with expertise in the electric industry with strong financial skills.

- Reference: 16 U.S.C. § 831a(h)(2) (2017)

*Party Balancing:* None

*Fixed Terms:* A member of the Board shall serve a term of 5 years.

- Reference: 16 U.S.C. § 831a(d)(1) (2017)

*Staggered Terms:* None<sup>482</sup>

- Reference:

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* A member of the Board whose term has expired may continue to serve after the member's term has expired until the date on which a successor takes office, except that the member shall not serve beyond the end of the session of Congress in which the term of the member expires.

- Reference: 16 U.S.C. § 831a(d)(1) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* The members of the Board shall select 1 of the members to act as chairman of the Board.

- Reference: 16 U.S.C. § 831a(a)(2) (2017)

*OMB Review:* None<sup>483</sup>

*Independent Litigating:* None

*Independent Sources of Funding:* In order to place the Board upon a fair basis for making such contracts and for receiving bids for the sale of such power, it is expressly authorized, either from appropriations made by Congress or from funds secured from the sale of such power, or from funds, secured by the sale of bonds hereafter provided for, to construct, lease, purchase, or authorize the construction of transmission lines within transmission distance from the place where generated, and to interconnect with other systems.

- Reference: 16 U.S.C. § 831k (2017)
- With the approval of the Secretary of the Treasury the Corporation is authorized, after the date of enactment of this section, to issue bonds not to exceed in the aggregate \$61,500,000. Such bonds may be sold by the Corporation to obtain funds which may be used for the following purposes only [purchase and rebuilding of utility properties; constructing electric transmission lines; making loans]. . . The authority of the Corporation to issue bonds under this section shall expire January 1, 1941, except that if at the time such authority expires the amount of bonds issued by the Corporation under this section is less than \$61,500,000, the Corporation may, subject to the foregoing provisions of this section, issue, after the expiration of such period, bonds in an amount not in excess of the amount by which the bonds so issued prior to the expiration of such period is less than \$61,500,000, for refunding purposes, or, subject to the provisions of paragraph (5) of this section (limiting the purposes for which loans under section 831k-1 of this title of funds derived from bond proceeds may be made) to provide funds found

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<sup>482</sup> While the current statute does not provide for staggered terms, the commissioners' terms are staggered due to the continuation of the structure set up by Pub L. 108-447 § 604 (2004).

<sup>483</sup> See Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget "Bypass" Authorities (Feb. 20, 2001), *available at* <http://www.citizen.org/documents/OMBDocument1.pdf>. (suggest informal legislative bypass)

necessary in the performance of any contract entered into by the Corporation prior to the expiration of such period, under the authority of section 831k-1 of this title.

- Reference: 16 U.S.C. § 831n-3 (2017)
- The Corporation is authorized to issue and sell bonds, notes, and other evidences of indebtedness in an amount not exceeding \$30,000,000,000 outstanding at any one time to assist in financing its power program and to refund such bonds. The Corporation may, in performing functions authorized by this chapter, use the proceeds of such bonds for the construction, acquisition, enlargement, improvement, or replacement of any plant or other facility used or to be used for the generation or transmission of electric power (including the portion of any multiple purpose structure used or to be used for power generation); as may be required in connection with the lease, lease-purchase, or any contract for the power output of any such plant or other facility; and for other purposes incidental thereto.
  - Reference: 16 U.S.C. § 831n-4(a) (2017)
- The Corporation shall charge rates for power which will produce gross revenues sufficient to provide funds for operation, maintenance, and administration of its power system; payments to states and counties in lieu of taxes; debt service on outstanding bonds, including provision and maintenance of reserve funds and other funds established in connection therewith; payments to the Treasury as a return of the appropriations investment pursuant to subsection (e) of this section; payment to the Treasury of the repayment sums specified in subsection (e) of this section; and such additional margin as the Board may consider desirable for investment in power system, assets, retirement of outstanding bonds in advance of maturity, additional reduction of appropriation investments, and other purposes connected with the Corporation's power business, having due regard for the primary objectives of this chapter, including the objective that power shall be sold at rates as low as feasible.
  - Reference: 16 U.S.C. § 831n-4(f) (2017)

*Reporting Requirements:* The Board shall . . . adopt and submit to Congress a conflict-of-interest policy applicable to members of the Board and employees of the Corporation.

- Reference: 16 U.S.C. § 831a(g)(1)(E) (2017)
- The Board shall file with the . . . Congress, in March of each year, a financial statement and a complete report as to the business of the Corporation covering the preceding governmental fiscal year.
  - Reference: 16 U.S.C. § 831h(a) (2017)
- Such data [complete accounts of its costs of generation, transmission, and distribution of electric energy] shall be reported to the Congress by the Board from time to time with appropriate analyses and recommendations.
- The Corporation shall file with the . . . Congress in December of each year a financial statement and complete report as to the expenditure of funds derived from the sale of bonds under this section covering the period not covered by any such previous statement or report.
  - Reference: 16 U.S.C. § 831n-3 (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* With the approval of the Secretary of the Treasury the Corporation is authorized, after the date of enactment of this section, to issue bonds not to exceed in the aggregate \$61,500,000.

- Reference: 16 U.S.C. § 831n-3 (2017)

*Legislative Veto:* None

*Adjudication:* None

## **TRADE AND DEVELOPMENT AGENCY**

*Date of Creation:* July 1, 1980<sup>484</sup>

*Statute:* 22 U.S.C. § 2421 (2017)

*Authorizing Language:* The Trade and Development Agency shall be an agency of the United States.

- Reference: 22 U.S.C. § 2421(a) (2017)

*Commissioners/Board Members:* None

*Quorum Rules:* N/A

*Agency Specific Personnel:* Of the officers and employees appointed under this paragraph, 2 may be appointed without regard to the provisions of Title 5, governing appointments in the competitive services, and may be compensated without regard to the provision of chapter 51 or subchapter III of chapter 53 of such title.

- Reference: 22 U.S.C. § 2421(c)(2)(C)

*Limitation on Appointment:* None

*Party Balancing:* N/A

*Fixed Terms:* None

*Staggered Terms:* N/A

*For Cause:* N/A

*Serve President:* None

*Continuation until Replacement:* None

*Acting Service Rules:* None

*Who is Head of Agency:* There shall be at the head of the Trade and Development Agency a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 22 U.S.C. § 2421(c)(1) (2017)

*OMB Review:* None

*Independent Litigating:* None

*Independent Sources of Funding:* None

*Reporting Requirements:* The President shall, not later than December 31 of each year, submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the activities of the Trade and Development Agency in the preceding fiscal year.

- Reference: 22 U.S.C. § 2421(d) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

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<sup>484</sup> According to the *Federal Register*, “The Trade and Development Program was established on July 1, 1980, as a component organization of the International Development Cooperation Agency. Section 2204 of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 2421) made it a separate component agency. The organization was renamed the Trade and Development Agency (USTDA) and made an independent agency within the executive branch of the Federal Government on October 28, 1992, by the Jobs Through Exports Act of 1992 (22 U.S.C. 2421)” (<https://www.federalregister.gov/agencies/trade-and-development-agency>).

*Action Require Outside Approval:* None  
*Legislative Veto:* None  
*Adjudication:* None

## **UNITED STATES AFRICAN DEVELOPMENT FOUNDATION**

*Date of Creation:* December 16, 1980<sup>485</sup>

*Statute:* 22 U.S.C. §§ 290h-290h-8 (2017)

*Authorizing Language:* There is established a body corporate to be known as the “United States African Development Foundation.”

- Reference: 22 U.S.C. § 290h-1(a) (2017)

*Commissioners/Board Members:* The management of the Foundation shall be vested in a board of directors composed of seven members appointed by the President, by and with the advice and consent of the Senate.

- Reference: 22 U.S.C. § 290h-5(a)(1) (2017)

*Quorum Rules:* A majority of the Board shall constitute a quorum.

- Reference: 22 U.S.C. § 290h-5(c) (2017)

*Agency Specific Personnel:* None

*Limitation on Appointment:* Five members of the Board shall be appointed from private life.

Two members of the Board shall be appointed from among officers and employees of agencies of the United States concerned with African affairs. All members of the Board shall be appointed on the basis of their understanding of and sensitivity to community level development processes.

- Reference: 22 U.S.C. § 290h-5(a)(1) (2017)

*Party Balancing:* Members of the Board shall be appointed so that no more than four members of the Board are members of any one political party.

- Reference: 22 U.S.C. § 290h-5(a)(1) (2017)

*Fixed Terms:* Members of the Board shall be appointed for terms of six years.

- Reference: 22 U.S.C. § 290h-5(a)(2) (2017)

*Staggered Terms:* Of the members first appointed, as designated by the President at the time of their appointment, two shall be appointed for terms of two years and two shall be appointed for terms of four years.

- Reference: 22 U.S.C. § 290h-5(a)(2) (2017)

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* Upon the expiration of his or her term a member shall continue to serve until a successor is appointed and shall have qualified.

- Reference: 22 U.S.C. § 290h-5(a)(2) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* The President shall designate one member of the Board to serve as Chairperson of the Board.

- Reference: 22 U.S.C. § 290h-5(a)(1) (2017)

*OMB Review:* None

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<sup>485</sup> International Security and Development Cooperation Act of 1980, Pub. L. No. 96-533, 94 Stat. 3131 (1980).

*Independent Litigating:* The Foundation, as a corporation. . .may sue and be sued, complain, and defend, in its corporate name in any court of competent jurisdiction.

- Reference: 22 U.S.C. § 290h-4(a)(2) (2017)

*Independent Sources of Funding:* The Foundation, as a corporation. . .may accept gifts or donations of services or of property (real, personal, or mixed), tangible or intangible, in furtherance of the purposes of this subchapter.

- Reference: 22 U.S.C. § 290h-4(a)(9) (2017)

*Reporting Requirements:* None

*Review Commissions:* None

*Advisory Commissions:* The Board shall establish an advisory council to be composed of such number of individuals as may be selected by the Board from among individuals knowledgeable about development activities in Africa. . .The Board shall, at least once each year, consult the advisory council concerning the objectives and activities of the Foundation.

- Reference: 22 U.S.C. § 290h-5(e) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **UNITED STATES INSTITUTE OF PEACE**

*Date of Creation:* October 19, 1984<sup>486</sup>

*Statute:* 22 U.S.C. §§ 4601-4611 (2017)

*Authorizing Language:* There is hereby established the United States Institute of Peace. The Institute is an independent nonprofit corporation and organization described in section 170(c)(2)(B) of Title 26.

- Reference: 22 U.S.C. § 4603(a)-(b) (2017)

*Commissioners/Board Members:* The powers of the Institute shall be vested in a Board of Directors unless otherwise specified in this chapter. The Board shall consist of fifteen voting members as follows: the Secretary of State (or if the Secretary so designates, another officer of the Department of State who was appointed with the advice and consent of the Senate); the Secretary of Defense (or if the Secretary so designates, another officer of the Department of Defense who was appointed with the advice and consent of the Senate); the president of the National Defense University (or if the president so designates, the vice president of the National Defense University); twelve individuals appointed by the President, by and with the advice and consent of the Senate.

- Reference: 22 U.S.C. § 4605(b) (2017)

*Quorum Rules:* A majority of the members of the Board shall constitute a quorum for any Board meeting.

- Reference: 22 U.S.C. § 4605(h)(2) (2017)

*Agency Specific Personnel:* Notwithstanding any other provision of law limiting the payment of compensation, the president and other officers appointed by the Board shall be

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<sup>486</sup> Department of Defense Authorization Act, 1985, Pub. L. 98-525, 98 Stat. 2492 (1984).

compensated at rates determined by the Board, but no greater than that payable for level 1 of the Executive Schedule under chapter 53 of Title 5.<sup>487</sup>

- Reference: 22 U.S.C. § 4606(a) (2017)

*Limitation on Appointment:* Each individual appointed to the Board under subsection (b)(4) of this section [PAS members] shall have appropriate practical or academic experience in peace and conflict resolution efforts of the United States.

- Reference: 22 U.S.C. § 4605(d)(1) (2017)
- Officers and employees of the United States Government may not be appointed to the Board under subsection (b)(4) of this section.
  - Reference: 22 U.S.C. § 4605(d)(2) (2017)
- An individual appointed as a member of the Board under subsection (b)(4) of this section [PAS members] may not be appointed to more than two terms on the Board.
  - Reference: 22 U.S.C. § 4605(e)(4) (2017)

*Party Balancing:* Not more than eight voting members of the Board (including [all] members) may be members of the same political party.

- Reference: 22 U.S.C. § 4605(c) (2017)

*Fixed Terms:* Members of the Board appointed under subsection (b)(4) of this section [PAS members] shall be appointed to four year terms.

- Reference: 22 U.S.C. § 4605(e)(1) (2017)
- The president [of the Institute] shall be appointed for an explicit term of years.
  - Reference: 22 U.S.C. § 4606(a) (2017)

*Staggered Terms:* The term of six of the [PAS] members initially appointed shall be two years, as designated by the President at the time of their nomination.

- Reference: 22 U.S.C. § 4605(e)(1)(A) (2017)

*For Cause:* A member of the Board appointed under subsection (b)(4) of this section [PAS members] may be removed by the President in consultation with the Board, for conviction of a felony, malfeasance in office, persistent neglect of duties, or inability to discharge duties; upon the recommendation of eight voting members of the Board; or upon the recommendation of a majority of the members of the Committee on Foreign Affairs and the Committee on Education and Labor of the House of Representatives and a majority of the members of the Committee on Foreign Relations and the Committee on Labor and Human Resources of the Senate.

- Reference: 22 U.S.C. § 4605(f) (2017)

*Serve President:* None

*Continuation until Replacement:* A member may continue to serve until his or her successor is appointed.

- Reference: 22 U.S.C. § 4605(e)(1)(B) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* The Board shall elect a Chairman every three years from among the directors appointed by the President under subsection (b)(4) of this section.

- Reference: 22 U.S.C. § 4605(h)(1) 92017)

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<sup>487</sup> However, the president shall be governed by the provision of Title 5 relating to classification and General Schedule pay rates with respect to other employees of the Institute. 22 U.S.C. § 4606(c) (2017).

*OMB Review:* None<sup>488</sup>

*Independent Litigating:* The Institute may sue and be sued, complain, and defend in any court of competent jurisdiction.

- Reference: 22 U.S.C. § 4604(k) 92017)

*Independent Sources of Funding:* As determined by the Board, the Institute may establish, under the laws of the District of Columbia, a legal entity which is capable of receiving, holding, and investing public funds for purposes in furtherance of the Institute under this chapter. The Institute may designate such legal entity as the “Endowment of the United States Institute of Peace.”

- Reference: 22 U.S.C. § 4603(c) (2017)
- Notwithstanding any other provision of this chapter, the Institute and the legal entity described in section 4603(c) of this title [Endowment of the Institute] may not obtain any grant or contract or receive any gift or contribution from any private agency, organization, corporation, or other legal entity, institution, or individual, except such Institute or legal entity may accept such a gift or contribution to purchase, lease for purchase, or otherwise acquire, construct, improve, furnish, or maintain a suitable permanent headquarters, any related facility, or any site or sites for such facilities for the Institute or legal entity described in section 4603(c) of this title or provide program-related hospitality, including such hospitality connected with the presentation of the Spark M. Matsunaga Medal of Peace.
  - Reference: 22 U.S.C. § 4604(h)(3) (2017)
- The Institute may charge and collect subscription fees and develop, for publication or other public communication, and disseminate, periodicals and other materials. The Institute may charge and collect fees and other participation costs from persons and institutions participating in the Institute’s direct activities authorized in subsection (b) of this section.
  - Reference: 22 U.S.C. § 4604(i)-(j) (2017)
- The Board of Directors may transfer to the legal entity authorized to be established under section 4603(c) of this title [Endowment of the Institute] any funds not obligated or expended from appropriations to the Institute for a fiscal year, and such funds shall remain available for obligation or expenditure for the purposes of such legal entity without regard to fiscal year limitations.
  - Reference: 22 U.S.C. § 4609(b) 92017)

*Reporting Requirements:* The Institute shall inform the Committee on Foreign Relations and the Committee on Labor and Human Resources of the Senate and the Committee on Foreign Affairs and the Committee on Education and Labor of the House of Representatives about the selection of procedures it intends to follow, together with any other matters relevant to making the [Spark M. Matsunaga Medal of Peace] award and emphasizing its prominence and significance.

- Reference: 22 U.S.C. § 4603(c)(3) (2017)

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<sup>488</sup> But see, Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget “Bypass” Authorities (Feb. 20, 2001), *available at* <http://www.citizen.org/documents/OMBDocument1.pdf> (suggesting that the Institute of Peace has informal legislative bypass).

- The Institute shall provide a report of the [annual] audit [of the accounts of the Institute]. . .to each House of Congress no later than six months following the close of the fiscal year for which the audit is made.
  - Reference: 22 U.S.C. § 4603(h) (2017)
- Any use by such legal entity [Endowment of the Institute] of appropriated funds shall be reported to each House of the Congress.
  - Reference: 22 U.S.C. § 4609(b) (2017)
- Beginning two years after October 19, 1984, and at intervals of two years thereafter, the Chairman of the Board shall prepare and transmit to the Congress. . .a report detailing the progress of Institute has made in carrying out the purposes of this chapter during the preceding two-year period.
  - Reference: 22 U.S.C. § 4611 (2017)

*Review Commissions:* None

*Advisory Commissions:* The Board shall establish an advisory panel composed of persons eminent in peacemaking, diplomacy, public affairs, and scholarship, and such advisory panel shall advise the Board during its consideration of the selection of the recipient of the [Spark M. Matsunaga Medal of Peace].

- Reference: 22 U.S.C. § 4604(c)(2) (2017)

*Action Require Outside Approval:* None

*Legislative Veto:* None

*Adjudication:* None

## **UNITED STATES INTERNATIONAL TRADE COMMISSION**

*Date of Creation:* September 8, 1916<sup>489</sup>

*Statute:* 19 U.S.C. §§ 1330-1341 (2017)

*Authorizing Language:* The United States International Trade Commission shall be composed of six commissioners.

- Reference: 19 U.S.C. § 1330(a) (2017)

*Commissioners/Board Members:* The United States International Trade Commission shall be composed of six commissioners who shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 19 U.S.C. § 1330(a) (2017)

*Quorum Rules:* A majority of the commissioners in office shall constitute a quorum, but the Commission may function notwithstanding vacancies.

- Reference: 19 U.S.C. § 1330(c)(6) (2017)

*Agency Specific Personnel:* None

*Limitation on Appointment:* No person shall be eligible for appointment as a commissioner unless he is a citizen of the United States, and, in the judgment of the President, is possessed of qualifications requisite for developing expert knowledge of international trade problems and efficiency in administering the duties and functions of the Commission.

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<sup>489</sup> Revenue Act, Pub. L. 271, 39 Stat. 795 1916). The agency was originally established as the U.S. Tariff Commission and, in 1974, its name changed to the International Trade Commission. Trade Act of 1974, Pub. L. 93-618, 88 Stat. 2009 (1975).

- Reference: 19 U.S.C. § 1330(a) (2017)
- A person who has served as commissioner for not more than 5 years. . .shall not be eligible for reappointment as commissioner.
  - Reference: 19 U.S.C. § 1330(a) (2017)

*Party Balancing:* Not more than three of the commissioners shall be members of the same political party, and in making appointments members of different political parties shall be appointed alternately as nearly as may be practicable.

- Reference: 19 U.S.C. § 1330(a) (2017)

*Fixed Terms:* The term of office of each commissioner. . .shall expire 9 years from the date of the expiration of the term for which his predecessor was appointed.

- Reference: 19 U.S.C. § 1330(b) (2017)

*Staggered Terms:* The terms of office of the commissioners holding office on January 3, 1975, which (but for this sentence) would expire on June 16, 1975, June 16, 1976, June 16, 1977, June 16, 1985, June 16, 1979, and June 16, 1980, shall expire on December 16, 1976, June 16, 1978, December 16, 1979, June 16, 1981, December 16, 1982, and June 16, 1984, respectively.

- Reference: 19 U.S.C. § 1330(b) (2017)

*For Cause:* None

*Serve President:* None

*Continuation until Replacement:* Any commissioner may continue to serve as commissioner after expiration of his term of office until his successor is appointed and qualified.

- Reference: 19 U.S.C. § 1330(b)(2) (2017)

*Acting Service Rules:* The vice chairman shall act as chairman in case of the absence or disability of the chairman. During any period in which there is no chairman or vice chairman, the commissioner having the longest period of continuous service as a commissioner shall act as chairman.

- Reference: 19 U.S.C. § 1330(c)(4) (2017)

*Who is Head of Agency:* The chairman. . .shall be designated by the President from among the members of the Commission not ineligible, under paragraph (3), for designation [the president may not designate as the chairman of the Commission for any term any commissioner who is a member of the political party of which the chairman of the Commission for the immediately preceding term is a member, or who has less than 1 year of continue service as a commissioner].

- Reference: 19 U.S.C. § 13390(c)(1) (2017)
- If, as of [the expiration of the previous chairman's term], the President has not designated the chairman of the Commission for such term, the Commissioner who, as of such date is a member of a different political party than the chairman of the Commission for the immediately preceding term and has the longest period of continuous service as a commissioner shall serve as chairman of the Commission for the portion of such term preceding the date on which an individual designated by the President takes office as chairman.
  - Reference: 19 U.S.C. § 1330(c)(1) (2017)
- Each term of office thereafter [June 16, 1980] shall begin on the date after the closing date of the immediately preceding the term of office and end at the close of the 2-year period beginning on such day.
  - Reference: 19 U.S.C. § 1330(c)(2)(B) (2017)

*OMB Review:* None<sup>490</sup>

*Independent Litigating:* The Commission shall be represented in all judicial proceedings by attorneys who are employees of the commission or, at the request of the commission, by the Attorney General of the United States.

- Reference: 19 U.S.C. § 1333(g) (2017)

*Independent Sources of Funding:* The chairman of the Commission may accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Commission.

- Reference: 19 U.S.C. § 1331(a)(1)(B) (2017)

*Reporting Requirements:* By not later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the Commission shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amounts of funds for the succeeding fiscal year that will be necessary for the Commission to carry out its functions.

- Reference: 19 U.S.C. § 1330(e)(4) (2017)
- The Commission shall report to Congress on the first Monday of December of each year after June 17, 1930, a statement of the methods adopted and all expenses incurred, a summary of all reports made during the year, and a list of all votes taken by the commission during the year, showing those commissioners voting in the affirmative and the negative on each vote and those commissioners not voting on each vote and the reasons for not voting. Each such annual report shall include a list of all complaints filed under section 1337 of this title during the year for which such report is being made, the date on which each such complaint was filed, and the action taken thereon, and the status of all investigations conducted by the commission under such section during such year and the date on which each such investigation was commenced.
- Reference: 19 U.S.C. § 1332(g) (2017)

*Review Commissions:* None

*Advisory Commissions:* None

*Action Require Outside Approval:* If the Commission determines that there is a violation of this section [unfair practices in import trade], or that, for purposes of subsection (e) of this section, there is reason to believe that there is such a violation it shall . . . transmit to the President a copy of such determination and the action taken under subsection (d), (e), (f), (g), or (i) of this section, with respect thereto, together with the record upon which such determination is based. If, before the close of the 60-day beginning on the day after the day on which he receives a copy of such determination, the President, for policy reasons, disapproves such determination and notifies the Commission of his disapproval, then, effective on the date of such notice, such determination and the action taken under subsection (d), (e), (f), (g), or (i) of this section with respect thereto shall have no force or effect.

- Reference: 19 U.S.C. § 1337(j) (2017)

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<sup>490</sup> OMB Circular A-11 identifies the International Trade Commission as an agency not subject to budget review by law or custom. OFFICE OF MGMT. & BUDGET, EXECUTIVE OFFICE OF THE PRESIDENT, OMB CIRCULAR A-11 (2017). See also, Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget “Bypass” Authorities (Feb. 20, 2001), *available at* <http://www.citizen.org/documents/OMBDocument1.pdf> (suggesting the ITC has informal legislative bypass authority).

*Legislative Veto:* None

*Adjudication:*<sup>491</sup> Each determination under subsection (d) or (e) of this section [exclusion of articles from entry due to unfair import trade practices] shall be made on the record after notice and opportunity for a hearing in conformity with the provisions of subchapter II of chapter 5 of Title 5.

- Reference: 19 U.S.C. § 1337(c) (2017)

## UNITED STATES POSTAL SERVICE

*Date of Creation:* August 12, 1970<sup>492</sup>

*Statute:* 39 U.S.C. §§ 101-5605 (2017)

*Authorizing Language:* There is established, as an independent establishment of the executive branch of the Government of the United States, the United States Postal Service.

- Reference: 39 U.S.C. § 201 (2017)

*Commissioners/Board Members:* The exercise of the power of the Postal Service shall be directed by a Board of Governors composed of 11 members appointed in accordance with this section. Nine of the members, to be known as Governors, shall be appointed by the President, by and with the advice and consent of the Senate.

- Reference: 39 U.S.C. § 202(a)(1) (2017)
- The Governors shall appoint and shall have the power to remove the Postmaster General, who shall be a voting member of the Board.
  - Reference: 39 U.S.C. § 202(c) (2017)
- The Governors and the Postmaster General shall appoint and shall have the power to remove the Deputy Postmaster General, who shall be a voting member of the Board.
  - Reference: 39 U.S.C. § 202(d) (2017)

*Quorum Rules:* Any 6 members present shall constitute a quorum for the transaction of business by the Board except that in the appointment or removal of the Postmaster General, and in setting the compensation of the Postmaster General and Deputy Postmaster General, a favorable vote of an absolute majority of the Governors in office shall be required; that in the appointment or removal of the Deputy Postmaster General, a favorable vote of an absolute majority of the Governors in office and the member serving as Postmaster General shall be required and as otherwise provided in this title.

- Reference: 39 U.S.C. § 205(c) (2017)
- Vacancies in the Board, as long as there are sufficient members to form a quorum, shall not impair the powers of the Board under this title.
  - Reference: 39 U.S.C. § 205(b) (2017)

*Agency Specific Personnel:* Officers and employees of the Postal Service (other than those individuals appointed under section 202, 204, and 1001(c) of this title shall be in the postal career service, which shall be part of the civil service. Such appointments and promotions shall be in accordance with the procedures established by the Postal Service.

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<sup>491</sup> Employs administrative law judges. Association of Administrative Law Judges. “Agencies Employing Administrative Law Judges,” <http://www.aalj.org/agencies-employing-administrative-law-judges> (accessed October 30, 2017).

<sup>492</sup> Postal Reorganization Act, Pub. L. No. 91-375, 84 Stat. 719 (1970). While the position of the Postmaster General dates back to July 26, 1775, Congress established the United States Postal Service in its current form in 1970.

The Postal Service shall establish procedures, in accordance with this title, to assure its officers and employees meaningful opportunities for promotion and career development and to assure its officers and employees full protection of their employment rights by guaranteeing them an opportunity for a fair hearing on adverse actions, with representatives of their own choosing.

- Reference: 39 U.S.C. § 1001(b) (2017)
- Except as provided under chapters 2 and 12 of this title, section 8G of the Inspector General Act of 1978, or other provision of law, the Postal Service shall classify and fix the compensation and benefits of all officers and employees in the Postal Service. It shall be the policy of the Postal Service to maintain compensation and benefits for all officers and employees on a standard of comparability to the compensation and benefits paid for comparable levels of work in the private sector of the economy. No officer or employee shall be paid compensation at a rate in excess of the rate for level I of the Executive Schedule under section 5312 of title 5.
  - Reference: 39 U.S.C. § 1003(a)
- It shall be the policy of the Postal Service to provide compensation, working conditions, and career opportunities that will assure the attracting and retention of qualified and capable supervisory and other managerial personnel; to provide adequate and reasonable differentials in rates of pay between employees in the clerk and carrier grades in the line work force and supervisory and other managerial personnel; to establish and maintain continuously a program for all such personnel that reflects the essential importance of a well-trained and well-motivated force to improve the effectiveness of postal operations; and to promote the leadership status of such personnel with respect to rank-and-file employees, recognizing that the role of such personnel in primary level management is particularly vital to the process of converting general postal policies into successful postal operations.
  - Reference: 39 U.S.C. § 1004(a) (2017)

*Limitation on Appointment:* The Governors shall represent the public interest generally, and shall be chosen solely on the basis of their experience in the field of public service, law or accounting or on their demonstrated ability in managing organizations or corporations (in either the public or private sector) of substantial size; except that at least 4 of the Governors shall be chosen solely on the basis of their demonstrated ability in managing organizations or corporations (in either the public or private sector) that employ at least 50,000 employees. The Governors shall not be representatives of specific interests using the Postal Service.

- Reference: 39 U.S.C. § 202(a)(1) (2017)
- No person may serve more than 2 terms as a Governor.
  - Reference: 39 U.S.C. § 202(b)(2) (2017)
- The Inspector General shall be appointed. . .solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations.
  - Reference: 39 U.S.C. § 202(e)(3) (2017)
- No officer or employee of the United States may serve concurrently as a Governor.
  - Reference: 39 U.S.C. § 205(d) (2017)

*Party Balancing:* Not more than 5 of [the Governors] may be adherents of the same political party.

- Reference: 39 U.S.C. § 202(a)(1) (2017)

*Fixed Terms:* The terms of the 9 Governors shall be 7 years.

- Reference: 39 U.S.C. § 202(b)(1) (2017)
- The Inspector General shall be appointed for a term of 7 years.
  - Reference: 39 U.S.C. § 202(e)(2)(A) (2017)

*Staggered Terms:* The terms of the 9 Governors first taking office shall expire as designated by the President at the time of appointment, 1 at the end of 1 year, 1 at the end of 2 years, 1 at the end of 3 years, 1 at the end of 4 years, 1 at the end of 5 years, 1 at the end of 6 years, 1 at the end of 7 years, 1 at the end of 8 years, and 1 at the end of 7 years, following the appointment of the first of them.

- Reference: 39 U.S.C. § 202(b)(1) (2017)

*For Cause:* The Governors. . . may be removed only for cause.

- Reference: 39 U.S.C. § 202(a)(1) (2017)

*Serve President:* None

*Continuation until Replacement:* A Governor may continue to serve after the expiration of his term until his successor has qualified, but not to exceed one year.

- Reference: 39 U.S.C. § 202(b)(1) (2017)

*Acting Service Rules:* None

*Who is Head of Agency:* The Governors shall elect a Chairman from among the members of the Board.

- Reference: 39 U.S.C. § 202(a)(1) (2017)

*OMB Review:*<sup>493</sup> The Postal Service shall cause to be prepared annually a budget program which shall be submitted to the Office of Management and Budget. . . The President shall include these amounts, with his recommendations but without revision, in the budget transmitted to Congress under section 1105 of title 31.<sup>494</sup>

- Reference: 39 U.S.C. § 2009 (2017)
- The Postal Service shall present to the Committee on Governmental Affairs of the Senate and the Committee on Governmental Reform of the House of Representatives and the Committees on Appropriations of the Senate and the House of Representatives at the same time it submits its annual budget [to OMB] under section 2009 of this title, sufficient copies of the budget of the Postal Service for the fiscal year for which funds are requested to be appropriated and a comprehensive statement relating to the [plans, policies, procedures, operations, expenditures, and obligations of the Postal Service].
  - Reference: 39 U.S.C. § 2401(e) (2017)

*Independent Litigating:* None

*Independent Sources of Funding:* The Postal Service shall have the following general powers: . . . to accept gifts or donations of services or property, real or personal, as it deems necessary or convenient in the transaction of its business.

- Reference: 39 U.S.C. § 401(7) (2017)

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<sup>493</sup> But see, Memorandum from Jim Jukes, Assistant Director for Legislative Reference, Office of Management and Budget, on Agencies with Legislative and Budget “Bypass” Authorities (Feb. 20, 2001), *available at* <http://www.citizen.org/documents/OMBDocument1.pdf> (suggesting the USPS has informal legislative bypass authority).

<sup>494</sup> In addition, OMB Circular A-11 identifies the Postal Service as an agency not subject to budget review by law or custom. OFFICE OF MGMT. & BUDGET, EXECUTIVE OFFICE OF THE PRESIDENT, OMB CIRCULAR A-11 (2017).

- The Department of State shall reimburse the Postal Service for any amounts, determined by the Postal Service, equal to the additional costs incurred by the Postal Service, including transportation costs, incurred by the Postal Service in the performance of its obligations under any agreement entered into under this section [postal services at diplomatic posts].
  - Reference: 39 U.S.C. § 413(c) (2017)
- There is established in the Treasury of the United States a revolving fund to be called the Postal Service Fund which shall be available to the Postal Service without fiscal-year limitation to carry out the purposes, functions, and powers authorized by this title (other than any of the purposes, functions, or powers for which the Competitive Products Fund is available). Except as otherwise provided in section 2011, there shall be deposited in the Fund, subject to withdrawal by check by the Postal Service revenues from postal and nonpostal services rendered by the Postal Service; amounts received from obligations issued by the Postal Service; amounts appropriated for the use of the Postal Service; interest which may be earned on investments of the Fund; any other receipts of the Postal Service; the balance in the Post Office Department Fund established under former section 2202 of title 39 as the commencement of operations of the Postal Service; amounts (including proceeds from the sale of forfeited items) from any civil forfeiture conducted by the Postal Service; any transfers from the Secretary of the Treasury from the Department of the Treasury Forfeiture Fund which shall be available to the Postmaster General only for Federal law enforcement related purposes and any amounts collected under section 3018. . .The Fund shall be available for the payment of (A) all expenses incurred by the Postal Service in carrying out its functions as provided by law, subject to the same limitation as set forth in the parenthetical matter under subsection (A); (B) all expenses of the Postal Regulatory Commission, subject to the availability of amounts appropriated under section 504(d); and (C) all expenses of the Office of Inspector General.
  - Reference: 39 U.S.C. § 2003 (2017)
- The Postal Service is authorized to borrow money and to issue and sell such obligations as it determines necessary to carry out the purposes of this title, other than any of the purposes for which the corresponding authority is available to the Postal Service under section 2011. The aggregate amount of obligations issued by the Postal Service which may be outstanding at any one time shall not exceed the maximum amount then allowable under paragraph (2) of this subsection. In any one fiscal year, the net increase in the amount of obligations outstanding issued for the purpose of capital improvements and the net increase in the amount of obligations outstanding issued for the purpose of defraying operating expenses of the Postal Service shall not exceed a combined total of \$3,000,000,000.
  - Reference: 39 U.S.C. § 2005 (2017)
- There is established in the Treasury of the United States a revolving fund, to be called the Postal Service Competitive Products Fund, which shall be available to the Postal Service without fiscal year limitation for the payment of costs attributable to competitive products and all other costs incurred by the Postal Service, to the extent allocable to competitive products. There shall be deposited in the Competitive Products Fund, subject to withdrawal by the Postal Service revenues from competitive products; amounts received from obligations issued by Postal Service under subsection (e); interest and dividends

earned on investments of the Competitive Products Fund; and any other receipts of the Postal Service (including from the sale of assets), to the extent allocable to competitive products. . . Subject to the limitations specified in section 2055(a), the Postal Service is authorized to borrow money and to issue and sell such obligations as the Postal Service determines necessary to provide for competitive products and deposit such amounts in the Competitive Products Fund.

- Reference: 39 U.S.C. § 2011 (2017)
- There are appropriated to the Postal Service all revenues received by the Postal Service.
  - Reference: 39 U.S.C. § 2401(a) (2017)
- When the Postal Service has proceeded under authority of subsection (a) of this section [offsetting balances for transportation of international mail], it shall. . . deposit in the Postal Service Fund that portion of the amount so credited which is due to the United States on its own account.
  - Reference: 39 U.S.C. § 2602(b) (2017)

*Reporting Requirements:* The Postmaster General shall promptly notify the Governors and both Houses of Congress in writing if he or she removes the Chief Postal Inspector or transfers the Chief Postal Inspector to another position or location within the Postal Service, and shall include in any such notification the reasons for the removal or transfer.

- Reference: 39 U.S.C. § 204 (2017)
- The Postmaster General shall render an annual report to the Board concerning the operations of the Postal Service under this title. Upon approval thereof, or after making such changes as it considers appropriate, the Board shall transmit such reports to. . .the Congress.
  - Reference: 39 U.S.C. § 2402 (2017)
- No later than September 30, 1997, the Postal Services shall submit to. . .Congress a strategic plan for its program activities. . .The strategic plan shall cover a period of not less than five years forward from the fiscal year in which it is submitted, and shall be updated and revised at least every three years. . .When developing a strategic plan, the Postal Service shall solicit and consider the views and suggestions of those entities potentially affected by or interested in such a plan, and shall advise the Congress of the contents of the plan.
  - Reference: 39 U.S.C. § 2802 (2017)
- Not later than two weeks after the last day of each quarter of the fiscal year, or as soon as practicable thereafter, the Postmaster General shall send to the Chief Administrative Officer of the House of Representatives, the House Commission on Congressional Mailing Standards, the Secretary of the Senate, and the Senate Committee on Rules and Administration a report which shall contain a tabulation of the estimated number of pieces and costs of franked mail, as defined in section 3201 of this title, in each mail classification sent through the mail for that quarter and for the preceding quarters in the fiscal year, together with separate tabulations of the number of pieces and costs of such mail sent by the House and by the Senate.
  - Reference: 39 U.S.C. § 3216(e)(1) (2017)
- Two weeks after the close of the second quarter of the fiscal year, or as soon as practicable thereafter, the Postmaster General shall send to the Chief Administrative Officer of the House of Representatives, the House Commission on Congressional Mailing Standards, the Committee on House Oversight, the Secretary of the Senate, and

the Senate Committee on Rules and Administration, a statement of the costs of postage on, and fees and charges in connection with, mail matter sent through the mails as described in paragraph (1) of this subsection for the preceding two quarters together with an estimate of such costs for the balance of the fiscal year.

- Reference: 39 U.S.C. § 3216(e)(2) (2017)
- For each exception made under this subsection [total compensation limitation exceptions for critical positions], the Board shall provide written notification to . . .the Congress within 30 days after the payment is made setting forth the name of the officer or employee involved, the critical nature of his or her duties and responsibilities, and the basis for determining that such payment is warranted.
  - Reference: 39 U.S.C. § 3686(c) (2017)

*Review Commissions:* A determination of the Postal Service to close or consolidate any post office may be appealed by any person served by such office to the Postal Regulatory Commission within 30 days after such determination is made available to such person under paragraph (3). The Commission shall review such determination on the basis of the record before the Postal Service in the making of such determination. The Commission shall make a determination based on such review no later than 120 days after receiving any appeal under this paragraph. The Commission shall set aside any determination, findings, and conclusions found to be arbitrary, capricious, an abuse of discretion or otherwise not in accordance with the law; without observance of procedure required by law; or unsupported by substantial evidence on the record.

- Reference: 39 U.S.C. § 404(d)(5) (2017)
- Not later than 2 years after the date of enactment of the Postal Accountability and Enforcement Act, the Postal Regulatory Commission shall review each nonpostal service offered by the Postal Service on the date of enactment of that act and determine whether that nonpostal service shall continue, taking into account the public need for the service and the ability of the private sector to meet the public need for the service. Any nonpostal service not determined to be continued by the Postal Regulatory Commission under paragraph (3) shall terminate.
  - Reference: 39 U.S.C. § 404(e)(3)-(4) (2017)
- If necessary in order to determine the feasibility or desirability of a product being tested under this section, the Postal Regulatory Commission may, upon written application of the Postal Service (filed not later than 60 days before the date as of which the testing of such product would otherwise be scheduled to terminate under paragraph (1)), extend the testing of such product for not to exceed an additional 12 months.
  - Reference: 39 U.S.C. § 3641(d)(2) (2017)
- The Postal Regulatory Commission may, upon written application of the Postal Service, exempt the market test from the limit in paragraph (1)[total revenues do not exceed \$10,000,000 in any year] if the total revenues that are anticipated, or in fact received, by the Postal Service from such product do not exceed \$50,000,000 in any year, subject to subsection (g). In reviewing an application under this paragraph, the Postal Regulatory Commission shall approve such application if it determines that the product is likely to benefit the public and meet an expected demand; the product is likely to contribute to the financial stability of the Postal Service; and the product is not likely to result in unfair or otherwise inappropriate competition.
  - Reference: 39 U.S.C. § 3641(e)(2) (2017)

- Upon request of the Postal Service. . .the Postal Regulatory Commission may change the list of market-dominant products under section 3621 and the list of competitive products under section 3631 by adding new products to the lists, removing products from the lists, or transferring products between the lists.
  - Reference: 39 U.S.C. § 3642 (2017)
- Any interested person (including an officer of the Postal Regulatory Commission representing the interests of the general public) who believes the Postal Service is not operating in conformance with the requirements of the provisions of sections 101(d), 401(2), 403(c), 404a, or 601, or this chapter (or regulations promulgated under any of those provisions) may lodge a complaint with the Postal Regulatory Commission in such form and manner as the Commission may prescribe. . .If the Postal Regulatory Commission finds the complaint to be justified, it shall order that the Postal Service take such action as the Commission considers appropriate in order to achieve compliance with the applicable requirements and to remedy the effects of any noncompliance (such as ordering unlawful rates to be adjusted to lawful levels, ordering the cancellation of market tests, ordering the Postal Service to discontinue providing loss-making products, or requiring the Postal Service to make up for revenue shortfalls in competitive products).
  - Reference: 39 U.S.C. § 3662 (2017)

*Advisory Commissions:* There shall be a Postal Service Advisory Council. . .the Postal Service shall consult with and receive the advice of the Advisory Council regarding all aspects of postal operations.

- Reference: 39 U.S.C. § 206 (2017)

*Action Require Outside Approval:* With the approval of the Secretary of the Treasury, the Postal Service may deposit moneys of the [Postal Service] Fund in any Federal Reserve bank, any depository for public funds, or in such other places and in such manner as the Postal Service and the Secretary may mutually agree.

- Reference: 39 U.S.C. § 2003(d) (2017)
- At least 15 days before selling any issue of obligations under section 2005 or 2011 of this title, the Postal Services shall advice the Secretary of the Treasury of the amount, proposed date of sale, maturities, terms and conditions, and expected maximum rates of interest of the proposed issue in appropriate detail and shall consult with his or his designee thereon. The Secretary may elect to purchase such obligations under such terms, including rates of interest, as he and the Postal Service may agree. . .If the Secretary does not purchase such obligations, the Postal Service may proceed to issue and sell them to a party or parties other than the Secretary upon notice to the Secretary and upon consultation as to the date of issuance, maximum rates of interest, and other terms and conditions.
  - Reference: 39 U.S.C. § 2006 (2017)
- With the approval of the Secretary of the Treasury, the Postal Service may deposit moneys of the Competitive Products Fund in any Federal Reserve bank, any depository for public funds, or in such other places and in such manner as the Postal Service and the Secretary may mutually agree.
  - Reference: 39 U.S.C. § 2011(d) (2017)

*Legislative Veto:* None

*Adjudication: None*<sup>495</sup>

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<sup>495</sup> Employs administrative law judges. Association of Administrative Law Judges. “Agencies Employing Administrative Law Judges,” <http://www.aalj.org/agencies-employing-administrative-law-judges> (accessed October 30, 2017).